



State of Idaho

DEPARTMENT OF WATER RESOURCES

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December 18, 1995

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Honorable Daniel C. Hurlbutt, Jr.
SRBA District Court
253 3rd Avenue North
Twin Falls, ID 83303

RE: Amended Director's Report for Reporting Area 1 (Basin 34)

Dear Judge Hurlbutt:

In response to your request, and pursuant to section 34 of the 1994 amendments to the adjudication statute, I am providing an Amended Director's Report for Reporting Area 1 (Basin 34) for filing with the court. The amended Director's Report amends the "preamble" of the Basin 34 report, which includes the general provisions.

Also enclosed are the following three attachments:

1. Attachment 1 is an illustrated version of the amended report, which shows both the original text and the amendments, with deleted text shown in an overstrike format and with new text shaded (redlined).
2. Attachment 2 explains the changes made in the amended director's report, and further explains changes IDWR plans to make to the list of recommended rights and the list of rights/claims not recommended.
3. Attachment 3 includes samples of uncontested water rights currently recommended in the Basin 57 report, which have been amended as described in attachment 2.

On this date, copies of this letter, the amended report, and the attachments were mailed to all persons on the court's certificate of mailing.

It is my sincere hope and belief that this will promote the expeditious resolution of the concerns identified by the court and the continued progress of the SRBA.

Sincerely,

Karl J. Dreher
Director

COPY

AMENDED DIRECTOR'S REPORT PART I FOR REPORTING AREA 1 (BASIN 34)

December 15, 1995

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INTRODUCTION

The Director's Report for Reporting Area 1 (Basin 34) was prepared under the direction of the Director of the Idaho Department of Water Resources (Director) as part of the Snake River Basin Adjudication (SRBA). The report consist of three parts. Part I of the report contains the Director's recommendations as to claims to water rights appropriated under state law from Reporting Area 1. Part II of the report contains abstracts of claims or negotiated agreements for claims to water rights reserved under federal law in Reporting Area 1, except for federal instream flow and tribal claims. The Director's Report Part II of federal instream flow and tribal claims was filed separately with the court. Part III of the report contains the negotiated agreements and claims submitted to IDWR for rights reserved under federal law from Reporting Area 1.

INSTRUCTIONS FOR USING THIS REPORT PART I

This Report Part I consists of eight sections, five of which are explanatory material as that term is defined in § 42-1411(1), Idaho Code, and three of which are determinations of the Director as required by § 42-1411(2) and (3), Idaho Code. The sections of the report that are explanatory are: this Introduction, a Description of the Water System, a Name Index, a Number Index and a Point of Diversion Index. The sections of the report that are determinations of the Director are: the General Provisions, a List of Recommended Water Rights, and a List of Claims Recommended to be Disallowed.

The general provisions consist of: (a) provisions that apply to all water rights in Reporting Area 1 (Basin 34); and (b) provisions that further define or limit certain classes of water rights recommended in the report. These general provisions will affect your water right, BE SURE TO READ THEM.

The water rights in the list of recommended water rights are grouped alphabetically by source, and recommended water rights from each source are listed chronologically by priority date. The rights or claims in the list of claims recommended to be disallowed are listed numerically by water right number.

Brief instructions for interpreting an entry in the list of recommended water rights and the list of claims recommended to be disallowed are found at the beginning of those sections.

SCOPE OF ADJUDICATION

a. Except for those uses or rights described in b. below, this report Part I includes the following water rights from Reporting Area 1:

i. All rights existing and appropriated under state law prior to November 19, 1987.

ii. All water right permits for which proof of beneficial use was filed prior to November 19, 1987.

iii. All water right permits for which proof of beneficial use was filed prior to December 1, 1990 were required to be claimed by order of the Director dated January 2, 1991.

iv. Water rights appropriated under state law and arising on or after November 19, 1987, which were allowed to be claimed in the SRBA but were not required to be claimed in the SRBA and for which claims were filed.

The rights are generally described as they existed on November 19, 1987; however, rights that were the subject of an administrative proceeding before IDWR that was completed after November 19, 1987 but prior to the filing of this report are described as of the date the administrative proceeding was completed.

b. Section 42-1409(4), Idaho Code, requires all claims to water rights be filed in an adjudication except those exempted by § 42-1420, Idaho Code. Section 42-1420, Idaho Code, also provides for the conclusive effect of the decree. Thus, water rights not claimed in this adjudication that were required to be claimed will not exist upon entry of the court's decree for Reporting Area 1. The water rights not required to be claimed in this adjudication, or not required to be claimed at this time, include the following:

i. Certain small domestic and stock water rights may be deferred as set forth in the orders of the court dated January 17, 1989, entitled Findings of Fact, Conclusions of Law, and Order Establishing Procedures for Adjudication of Domestic and Stock Water Uses, and March 22, 1995, entitled SRBA Administration Order No. 10, Order Governing Procedures in the SRBA for Domestic and Stock Water Uses. Adjudication at a later date of the rights deferred under these orders must be done in accordance with the orders. The orders further provide that the claimant of a deferred right must: (a) have the

right adjudicated prior to seeking authorization from IDWR for a change in use pursuant to Idaho Code § 42-222; and (b) the right must be adjudicated before water may be distributed to it by the Director.

The orders apply to "deferrable" domestic and stock water rights that existed prior to November 19, 1987, including permits for which proof of beneficial use was filed prior to November 19, 1987, and other permits required to be claimed by order of the Director.

A "deferrable domestic" right is a right to the use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection therewith, including irrigation of up to one-half acre of land, if the total use is not in excess of 13,000 gallons per day. However, a water right cannot be deferred if used for multiple ownership subdivisions, mobile home parks, commercial or business establishments, or any other uses, if the total of the other uses exceeds a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. Idaho Code §42-1401A(5) (1990), §42-111 (1990).

A "deferrable stock water" right is a right to the use of water solely for livestock and/or wildlife where the total use is not in excess of 13,000 gallons per day. Idaho Code §42-1401A(12) (1990).

ii. Water used solely for firefighting purposes is not required to be claimed in the SRBA. Firefighting purposes are defined in general provision 5 of the general provisions below.

iii. Water rights used solely for instream livestock use are not required to be claimed in the SRBA. A right to instream livestock use that is not decreed in the SRBA must be adjudicated before water may be distributed to it by the Director.

"Instream livestock use" means the drinking of water by domestic livestock from a natural stream without the use of any constructed physical diversion works. Idaho Code §42-113 (1990).

iv. Permits for which proof of beneficial use was filed on or after December 1, 1990 are not required to be claimed in the SRBA.

c. The decree in the SRBA determining rights to water from Reporting Area 1 will supersede all prior decrees determining rights to water from Reporting Area 1, including all prior decree provisions for administration of such rights.

PURPOSE OF THIS REPORT PART I

This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights and matters necessary for administration of water rights in Reporting Area 1 (Basin 34). This report makes no recommendation as to the ownership or the right to the use of facilities or lands used in delivery of a recommended water right, or the lands upon which the recommended water right is used.

For purposes of recommending the water rights in this report, a diversion rate of 0.02 cubic feet per second (CFS) per acre from ground water or 0.0286 CFS (additional 0.0086 CFS to allow for conveyance loss) per acre from surface water, measured at the point of diversion from the water source, was deemed to be the rate of diversion reasonably required for the irrigation of lands, unless the claimant demonstrated that a higher diversion rate is reasonably required due to actual, reasonable conveyance losses, irrigation methods, or field conditions. However, because the irrigation of small acreages of five acres or less can result in lowered irrigation efficiencies, a diversion rate of up to 0.03 CFS per acre was deemed to be the rate of diversion reasonably required for the irrigation of the lands.

For purposes of recommending the water rights in this report, the maximum annual volume of water reasonably required for irrigation of lands in Reporting Area 1 is 3.5 acre feet per year (AFY) per acre unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation, or field conditions. J. Peppersack, IDWR File Memo re: Consumptive Irrigation Requirement, Irrigation Field Headgate Requirement and Irrigation Season of Use (December 18, 1991).

For purposes of recommending the water rights in this report, the maximum annual volume of consumptive use reasonably required for irrigation of lands in Reporting Area 1 is 2.5 AFY per acre. J. Peppersack, IDWR File Memo re: Consumptive Irrigation Requirement, Irrigation Field Headgate Requirement and Irrigation Season of Use (December 18, 1991).

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Unless more water was deemed to be necessary, the combined use of more than one right for irrigation purposes for the same land is recommended to be limited to:

- a. a combined total rate of diversion of .02 CFS per acre from ground water or 0.0286 CFS per acre from surface water,
- b. a combined total annual diversion volume of 3.5 AFY per acre, and
- c. a combined total annual consumptive use volume of 2.5 AFY per acre.

The purpose of the report is to make recommendations to the court as to matters that need to be included in the decree so water rights can be efficiently administered once decreed. Once decreed, water rights in Reporting Area 1 will be administered in accordance with the laws governing water right administration including:

a. All ground water appropriators, including geothermal and non-geothermal ground water appropriators and ground water appropriators for domestic use, shall be subject to reasonable pumping levels as set forth in § 42-237a, Idaho Code.

b. Basin 34 is considered tributary to the Snake River, however, surface water flows from the basin either sink into the ground water within Basin 34 or, during periods of good water supply, surface flows reach the desert southeast of Arco and sink into the Eastern Snake Plain Aquifer. The surface water from Basin 34 never connects with the surface flows of the Snake River. The Basin 34 ground water moves southeasterly past Arco and also joins the Eastern Snake Plain Aquifer. The Swan Falls Agreement identifies Basin 34 to be within the trust water area. Generally accepted data quantifying the contribution of Basin 34 to the Eastern Snake Plain Aquifer is not presently available. However, it is generally accepted that the Basin 34 contribution to the annual recharge of the Eastern Snake Plain Aquifer is relatively small. Therefore, the water sources in Basin 34 are not subject to distribution as part of the Eastern Snake Plain Aquifer at this time, but may become subject to such distribution if the Director determines that such distribution is necessary to protect senior water rights. The Director has adopted the "Rules for Conjunctive Management of Surface and Ground Water Resources," IDAPA 37.03.11, for the distribution of ground water in Idaho, including the Eastern Snake Plain Aquifer.

c. The Director has adopted the "Idaho Department of Water Resources Water Distribution Rules - Water District 34," IDAPA 37.03.12, for the distribution of water within Basin 34 pursuant to an order for interim administration or the decree in the SRBA.

d. Administration of water rights for small domestic and stock water uses will occur as follows:

i. Small domestic and stock water rights from surface water are subject to administration to provide water to senior water rights from the water system.

ii. Small domestic and stock water rights from ground water are not subject to administration at this time. However, these rights may be made subject to administration to provide water to senior water rights from the water system if the Director determines that administration is necessary.

iii. An appropriator who has elected to defer adjudication of a deferrable small domestic and stock water right must have the right adjudicated before water will be distributed pursuant to the right by the Director. The Director may, however, curtail the delivery of water to an unadjudicated deferred domestic and/or stock water right if the Director determines such curtailment is necessary to protect senior water rights.

d. The Director has determined it necessary for most surface water diversions and for all non-de minimis ground water uses to be measured and regulated by the water master for the proper administration of the use of water within the basin. The Director may require water users to install and maintain additional measuring devices and control works, of a type acceptable to the Director, if necessary for the proper administration of the use of water in the future.

All water rights recommended herein remain subject to state law, including but not limited to laws governing water right administration and water quality. In particular, any change in the point of diversion, place of use, season of use, purpose of use, or place of use of the water right must be approved by the Director, pursuant to applicable law, prior to making the change. A future application for change in use that seeks to separate rights previously used in combination will be limited by the Director in accordance with the statutory requirements to prevent any expansion of the rights beyond the current use of the rights combined. Idaho Code § 42-1421(4)-(6) (1994).

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Rights shown in the listing of water rights with a basis of "permit" are in the process of perfection in accordance with the current statutory appropriation method. A right with a basis of permit is conditioned upon completion of the appropriation in accordance with the statutory procedure for appropriation of water rights, remains subject to all conditions set forth in the permit, and will be subject to all conditions set forth in any license issued by IDWR upon completion of the statutory appropriation process. Idaho Code § 42-1421(3) (1994).

DESCRIPTION OF THE WATER SYSTEM: REPORTING AREA 1 (BASIN 34)**BOUNDARIES OF BASIN**

The boundaries of Reporting Area 1 (Basin 34) are illustrated in Figure 1. More detailed maps, including Orthophotoquad maps with land use overlays based upon Landsat satellite imagery, are available in IDWR's Idaho Falls office and IDWR's state office in Boise. In addition, color infrared photography of Basin 34 is available in IDWR's Idaho Falls office.

The basin is approximately 1,400 square miles in area and includes portions of Custer, Butte, Bonneville, and Jefferson counties in eastern Idaho. It is comprised primarily of the Big Lost River drainage, but includes other small surface drainages to the southwest of the Big Lost River drainage, as well as the Idaho National Engineering Laboratory reservation to the east of the Big Lost River drainage. The basin is bounded by the mountains of the Big Lost Range to the northeast, by the Boulder Mountains to the northwest, and the Pioneer Mountains to the southwest. Tributaries of the Big Lost River flow from these mountains to the river, which flows in a generally southeasterly direction past the town of Arco. The Big Lost River then flows in a generally northeasterly direction, before the water sinks and becomes part of the supply of the Eastern Snake Plain Aquifer. One storage facility, Mackay Reservoir, is located on the Big Lost River in the northwestern part of the basin.

Water supply in the basin is highly variable from year to year and within the year, although there is a consistent pattern of highest flows in the late spring and lowest flows in the late summer. There is a high level of interaction between ground and surface water. Spring snowmelt and rainfall recharge both the ground water and the streams. In some areas, the ground water within the Big Lost River basin recharges the stream (the stream "rises"), while in other areas, the stream recharges the ground water (the stream "sinks"). The recharge pattern varies from year to year

Figure 1

WATER BASIN 34

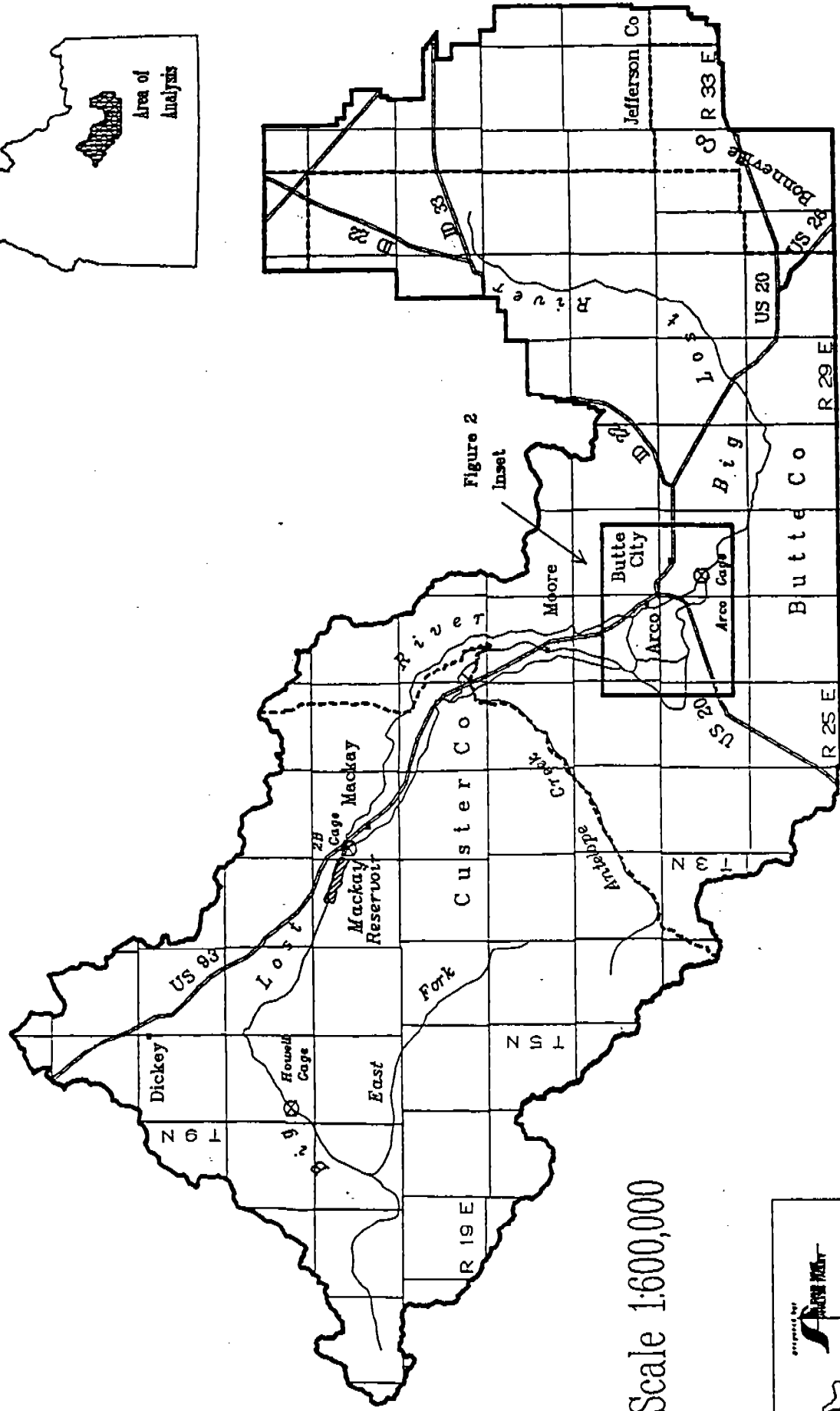
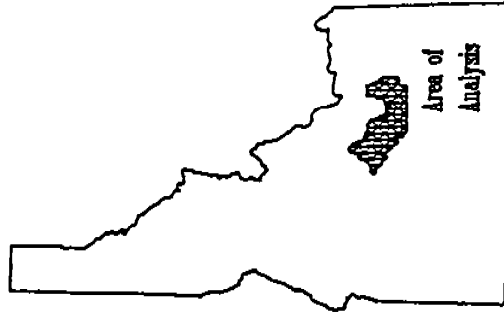


Figure 2
Inset

Scale 1:600,000



and within the year, as the level of the water table changes. There is a substantial flow of ground water from the basin to the Eastern Snake Plain Aquifer.

DEVELOPMENT OF WATER USE

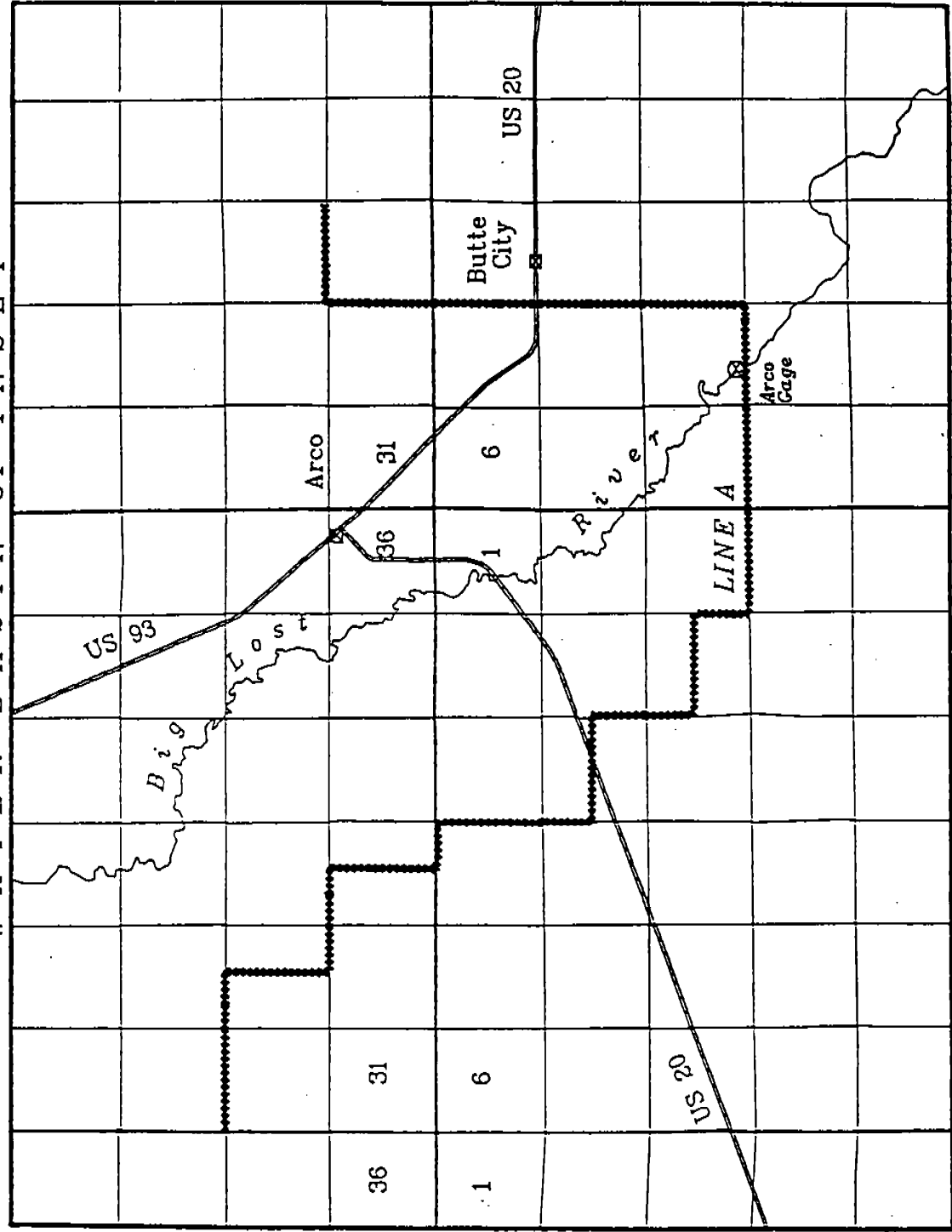
Development in the basin is primarily agricultural, except for the Idaho National Engineering Laboratory located in the southeast end of the basin and the city of Arco. Substantial surface water development first occurred in the late 1800's, primarily for irrigation of lands along the thread of the river and tributaries. Surface water storage was developed in the 1910's with the construction of Mackay Dam and Reservoir. The stored waters were used both to supplement surface water supplies for previously irrigated lands, and to irrigate new lands, extending the boundaries of the irrigated areas farther from the surface sources. Mackay Dam and Reservoir were purchased by the Big Lost River Irrigation District in 1935 at which time the new lands developed prior to 1935 with water from the reservoir were abandoned and all water was then used on lands developed prior to 1906. Since 1935 stored water from Mackay Reservoir has been applied to expanded acreage. Substantial ground water development began in the 1950's and 1960's. Ground water has been used to supplement surface water and storage water supplies for previously irrigated lands and to irrigate new lands, again extending the boundaries of the irrigated areas farther from the surface sources. Current irrigated acreage in the basin is approximately 67,000 acres, with the areas above Mackay Reservoir used primarily for livestock, and the areas below Mackay Reservoir used primarily for crop production.

GROUND WATER IN BASIN 34

Diversion of ground water pursuant to rights with points of diversion located upgradient (northerly) of Line A in Figure 2 reduce the flow of the Big Lost River upstream from the last (most downstream) diversion from the Big Lost River. Diversion of ground water pursuant to rights with points of diversion located downgradient (southerly) of Line A in Figure 2 do not reduce the flow of the Big Lost River upstream from the last (most downstream) point of diversion.

Figure 2

WATER BASIN 34 INSET



R 27 E

R 26 E

Scale 1:100,000



GENERAL PROVISIONS

The Director recommends that the following general provisions be included in the decree determining rights to water from Reporting Area 1 (Basin 34).

GENERAL PROVISIONS 1 - 5 APPLY TO ALL WATER RIGHTS IN REPORTING AREA 1 (BASIN 34).

1. DEFINITIONS.

a. The Howell gage is located above Mackay Reservoir in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 30, Township 8 North, Range 21 East, B.M.

b. The 2-B gage is located below Mackay Dam in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 7 North, Range 24 East, B.M.

2. ADMINISTRATION OF SURFACE SOURCES WITHIN BASIN 34. All surface waters of the Big Lost River and its tributaries shall be administered as a single water system, except as provided in this general provision 2.a. through 2.c.

a. During the irrigation season, from the time the flow at the Howell gage increases to 750 CFS, until the time when the flow recedes to 300 CFS, all surface waters of the Big Lost River and its tributaries, except as listed in paragraph b. below, shall be administered as a single water source. At all other times natural flow water rights (other than water rights for storage purposes) with a point of diversion above Mackay Reservoir shall be administered separately from the natural flow water rights with a point of diversion downstream from Mackay Reservoir. This provision is made under conditions existing as of the commencement of the SRBA (including diversions above the Howell gage); if diversions are made from the Big Lost River or its tributaries above the Howell gage pursuant to rights not existing as of the commencement of the SRBA, then the amounts diverted will be added to the amount of the flow at the Howell gage for the purposes of applying this provision.

b. The surface waters of the following streams shall be administered as separate from the surface waters of the Big Lost River: Rock Springs Creek, Rock Creek, Beda Creek, Corral Creek, Sage Creek, Upper Cedar Creek, Lower Cedar Creek, Dry Creek (also known as Cedar Creek), Pete Creek, Willow Creek, Pinto Creek, Lehman Creek, Vance Creek, Grant Creek and Hamilton Creek.

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c. The Back Channel, which separates from the main channel of the Big Lost River in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 5, Township 8 North, Range 22 East, B.M., shall be administered as part of the natural channel of the Big Lost River.

i. When the flow at the Howell gage is less than 1400 CFS, the flow in the Back Channel shall be kept as near as practicable to 150 CFS, but shall not exceed that amount.

ii. When the flow of the Howell gage is at or exceeds 1400 CFS, the flow in the Back Channel shall be kept as near as practicable to 200 CFS. The flow shall not exceed that amount unless all surface water rights existing at the time of administration (including water rights with a junior priority), and that are within their period of use, are satisfied.

iii. These provisions shall not be considered to enlarge the amount of water to which appropriators diverting from the Back Channel are entitled.

3. CONJUNCTIVE ADMINISTRATION OF GROUND AND SURFACE WATER RIGHTS WITHIN BASIN 34.

a. Some ground water rights in the list of water rights are described as being administered separate from the Big Lost River and its tributaries. All other ground water rights not so described will be administered as part of the Big Lost River and tributaries.

4. SPECIAL PROVISIONS AS TO STORAGE.

a. Mackay Dam and Reservoir shall be operated to maintain a minimum flow of 50 CFS at the 2-B gage. This 50 CFS shall be deemed unavailable for delivery to surface water rights below Mackay Dam outside the irrigation season.

b. Water rights that do not include storage as a purpose of use may not be stored. Surface water rights may, however, be rotated into storage, with the approval of the Director of the Idaho Department of Water Resources and the Big Lost River Irrigation District, when such practice improves the efficiency of water use as contemplated by the Irrigation District's plan of operation. Any water stored under such a rotation, if not used in the same irrigation season in which it is stored, shall revert to storage water of the Big Lost River Irrigation District at the end of the irrigation season. Rotation into storage cannot occur prior to the need for irrigation water on the land in any year; water rotated into storage may only be used on the

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land to which the water right being rotated is appurtenant; if the reservoir fills after rotation has begun in any year and 1905 priority natural flow water rights are able to receive water, all rotation credits are lost and all water in the reservoir at the time it fills reverts to storage water of the Big Lost River Irrigation District.

5. FIREFIGHTING PURPOSES.

a. Firefighting purposes is an alternate use for which any water right may be used, and firefighting is recognized as a lawful use of water with or without a water right.

b. Firefighting purposes means the use of water in times of emergency: to extinguish an existing fire on private or public lands, facilities, or equipment; to prevent an existing fire from spreading to private or public lands, facilities, or equipment within the vicinity of and endangered by an existing fire; and by firefighting personnel engaged in fighting an existing fire. Firefighting purposes does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires.

GENERAL PROVISION 6 APPLIES TO ALL WATER RIGHTS IN REPORTING AREA 1 (BASIN 34) SHOWN WITH IRRIGATION AS A PURPOSE OF USE.

6. IRRIGATION USE. Water rights or portions of water rights shown with a purpose of use for irrigation include the following:

a. Incidental stock water. When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use can be diverted and used from the same point of diversion and at the same place of use as the irrigation use for purposes of maintaining a reasonable water supply for stock watering during the period of use for irrigation.

b. Early-season irrigation and late-season irrigation. The period of use of rights or portions of rights from the Big Lost River for irrigation purposes may begin as early as April 20 and continue as late as October 31 if water is reasonably necessary for irrigation. In addition, diversion of water from surface water tributaries to the Big Lost River under rights or portions of rights for irrigation use can occur either before or after the period of use for irrigation described in the water right where:

- i. the water so diverted is applied to beneficial use for irrigation, including incidental stock watering,
 - ii. all water rights diverting from the same or a common source, regardless of priority (now existing or developed subsequent to this decree), existing at the time of diversion that are within their period of use can be satisfied,
 - iii. no element of the water right, other than season of use, is exceeded or violated by the early-season or late-season use,
 - iv. the diversion and use of the water does not conflict with the local public interest, and
 - v. the irrigation water user utilizing this provision assumes all risk that the criteria of this general provision are satisfied.
- c. Diversion of additional flows. A quantity of surface water in addition to the quantity of surface water described for irrigation use can be diverted for irrigation of the described place of use so long as:
- i. the waters so diverted are applied to beneficial use for irrigation,
 - ii. all water rights diverting from the same or a common source, regardless of priority (now existing or developed subsequent to this decree), existing at the time of diversion that are within their period of use can be satisfied,
 - iii. no element of the water right, other than quantity, is exceeded or violated by the diversion of additional flows,
 - iv. the diversion and use of the water does not conflict with the local public interest, and
 - v. the irrigation water user utilizing this general provision assumes all risk that the criteria of this general provision are satisfied.

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Instructions for Use of List of Recommended Water Rights

The recommended water rights are listed alphabetically by source, and the recommended water rights for each source are listed chronologically by priority date. The organization by source, which is shown near the top of each page, is useful for comparing a water right with the other water rights from the same source that could affect each other. To aid in locating an individual water right, three indexes (name, water right number, and point of diversion) are also provided in this report.

Each water right listed as a recommended water right includes the following elements:

RIGHT NUMBER: Each right includes a water right number assigned by IDWR for identification purposes. The first two digits of a water right number indicate IDWR's administrative basin number.

NAME AND ADDRESS: The name and address of the claimant shown in the list of recommended water rights is the name and address shown on the notice of claim, or on the most recent notice of change in address or change in ownership filed pursuant to Idaho Code § 42-1409(6).

SOURCE: The source is the water body to which the claimant has a right. For surface water sources, the list of recommended water rights also shows the water body to which the source is tributary. The source is shown at the top of each page in the list of recommended water rights. Those water rights having more than one source are listed under each source but include all sources in each listing of the water right.

QUANTITY: The quantity of the right is the maximum rate of flow in cubic feet per second (CFS) and/or the maximum volume of water in acre feet per calendar year (AFY). Maximum quantity is shown for each purpose of use in addition to the total maximum quantity for the water right. Except for instream flow rights or where otherwise stated in the recommended water right, the maximum quantity is the quantity diverted (and stored, for rights that include storage purposes) at the point of diversion. In some instances the total quantity shown in the description of the water right is less than the sum of the quantities for the individual uses because of physical constraints or because of limitations on the combined amounts of water claimed.

Maximum volume is not shown for some water rights or some portions of

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water rights. Where a total maximum volume is stated for a right, but is not stated for some portion of the right, then the maximum volume for that portion is not included in the total.

CONSUMPTIVE USE: Consumptive use is the amount of water that does not remain in the water system after use or is not returned to the water system through return flows or seepage. A numerical quantity shown in the listing of recommended water rights is the maximum annual volume of consumptive use in AFY. For water rights or portions of water rights that do not include a numerical amount for consumptive use, the consumptive use for the water right or portion of a water right is *de minimis*, which means it is small or trifling. Where the purpose of use for a portion of a right is irrigation and the remainder of the right is for other purposes, the consumptive use shown is the consumptive use for the irrigation portion only, unless otherwise stated in the water right.

PRIORITY DATE: This is the calendar date which is used to determine the relative priority of the right in relation to other rights from the same source.

POINT OF DIVERSION: The point of diversion is the point at which water is diverted from the source, and is generally indicated in the list of recommended water rights by a legal description of the 40 acre tract ($\frac{1}{4}$ $\frac{1}{4}$ section or 1/16 section) or government lot within which the point of diversion is located. In some instances, the point of diversion is indicated by a legal description of the ten acre tract ($\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ section or 1/64 section) within which the point of diversion is located.

If the point of diversion is alternatively known by another legal description, which IDWR has in its files, the alternate legal description is included in a statement in the listing of the water right. Some alternate legal descriptions are provided as explanatory material where the alternate legal description supplements the public land survey legal description. In those cases in which the alternate legal description is in lieu of the public land survey legal description, the alternate legal description is shown under the point of diversion. Alternate legal descriptions include: lot, block and subdivision or townsite names; parcel numbers from the county assessor's records of the county in which the property is located; HES or homestead entry surveys; mining claim names or numbers; other surveys where the land is located in areas not covered by the public land survey.

A point of diversion listed with a "B" suffix indicates the beginning point of an instream flow segment. A point of diversion listed with an "E" suffix indicates the ending point of an instream flow segment.

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A point of diversion listed with an "I" suffix indicates a point of injection, and a point of diversion listed with an "R" suffix indicates a point of redirection. Points of injection and redirection are indicated where water is diverted from one source, injected into another source, and then redirected, or where water from one source is exchanged with water from another source.

Public land survey legal descriptions in the listing of water rights appear, for example, as:

T06S R01W S17 NESWNW

T06S is the abbreviation of township 6 south (the direction for townships will always be S for south or N for north).

R01W is the abbreviation of range 1 west (the direction for ranges will always be W for west or E for east).

S17 is the abbreviation for section 17.

NESWNW is the abbreviation of NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, and

NE is the $\frac{1}{64}$ section,

SW is the $\frac{1}{16}$ section, and

NW is the $\frac{1}{4}$ section.

or, in the case of public land surveys involving government lots, the legal description appears, for example, as:

T03S R04W S02 LOT 3 (NWNENW)

The township, range and section descriptions are designated in the same manner as those above.

LOT 3 is the abbreviation for government lot 3.

(NWNENW) is the abbreviation of NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ but is enclosed in parenthesis since this is the projection of the actual legal description given by the government lot.

PURPOSE OF USE: Purpose of use indicates the general category of the type of beneficial use made of the water; typical purposes include irrigation, domestic, and stock water uses.

PERIOD OF USE: The period of use is the portion of the calendar year when water can be used for a particular purpose. The dates shown in the list of recommended water rights are the beginning and ending dates of the period of use and are read as "04-01 through 11-15" and are inclusive.

PLACE OF USE: The place of use is the location where water is used, which is generally indicated in the list of recommended water rights by a legal description

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of the 40 acre tract ($\frac{1}{4}$ $\frac{1}{4}$ section or 1/16 section) or government lot where the water is used. For irrigation rights, the number of irrigated acres in each 40 acre tract or government lot is listed after the description of each tract or lot when required by statute. The description of irrigation rights held by irrigation districts and the description of other large irrigation rights do not normally include the number of irrigated acres in each tract or lot. See the description of public land survey legal descriptions above.

If the place of use is alternatively known by another legal description, which IDWR has in its files, the alternate legal description is included in a statement in the listing of the water right. Some alternate legal descriptions are provided as explanatory material where the alternate legal description supplements the public land survey legal description. In those cases in which the alternate legal description is in lieu of the public land survey legal description, the alternate legal description is shown under the place of use. Alternate legal descriptions include: lot, block and subdivision or townsite names; parcel numbers from the county assessor's records of the county in which the property is located; HES or homestead entry surveys; mining claim names or numbers; other surveys where the land is located in areas not covered by the public land survey.

BASIS OF CLAIM: The basis of claim is the method by which the water right was established or the document that evidences the water right. The basis of claim may be a decree (where the water right was previously adjudicated by a court), posted notice (an historical method of appropriation that is no longer available); beneficial use (an historical method of appropriation that is available only in limited circumstances at the time of this report); permit (where IDWR approved an application for a new appropriation); or license (where an appropriation has been completed pursuant to a permit).

OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THE WATER RIGHT: The elements of a water right include elements necessary to define or administer the right. In the list of recommended water rights, any elements necessary for these purposes are included in the listing of the right.

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Instructions for Use of List of Claims Recommended to be Disallowed

The list of claims recommended to be disallowed includes the claims which have been investigated by IDWR and are recommended to be determined by the district court not to exist.

The disposition of a claim included in the list of claims recommended to be disallowed will be in one of the following categories:

- a. Disallowed: notices of claims filed and recommended for disallowal,
- b. Rejected: claims that were not properly filed and were returned to the claimant.

Where a claim was recommended as disallowed or rejected, a short statement of the reason for disallowal or rejection is stated in the listing for the claim.

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Attachment 1

AMENDED DIRECTOR'S REPORT PART I FOR REPORTING AREA 1 (BASIN 34)

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DIRECTOR'S REPORT PART I FOR BASIN 34

DESCRIPTIVE SUMMARY

~~—This document is the Director's Report Part I for Basin 34, and was prepared by the Director of the Idaho Department of Water Resources (IDWR) as part of the Snake River Basin Adjudication (SRBA). This report contains the Director's recommendations as to claims to water rights appropriated under state law from Basin 34, commonly known as the Big Lost River Basin.~~

~~—This report does not include all claims of the United States to water rights appropriated under state law from Basin 34. A Supplemental Director's Report Part I for Basin 34, containing the remaining United States' claims to water rights appropriated under state law in Basin 34 is proposed to be filed with the SRBA District Court on November 1, 1992. The Director's Report Part II for Basin 34, containing abstracts of claims to or negotiated agreements of claims to water rights reserved under federal law in Basin 34, except for federal instream flow and tribal claims, is also proposed to be filed with the court on November 1, 1992. The Director's Report(s) Part II for federal instream flow and tribal claims will be filed with the court at a later date.~~

Moved to Introduction.

INTRODUCTION

The Director's Report for Reporting Area 1 (Basin 34) was prepared under the direction of the Director of the Idaho Department of Water Resources (Director) as part of the Snake River Basin Adjudication (SRBA). The report consist of three parts. Part I of the report contains the Director's recommendations as to claims to water rights appropriated under state law from Reporting Area 1. Part II of the report contains abstracts of claims or negotiated agreements for claims to water rights reserved under federal law in Reporting Area 1, except for federal instream flow and tribal claims. The Director's Report Part II of federal instream flow and tribal claims was filed separately with the court. Part III of the report contains the negotiated agreements and claims submitted to IDWR for rights reserved under federal law from Reporting Area 1.

Taken from the Descriptive Summary of the prior report.

INSTRUCTIONS FOR USING THIS REPORT PART I

This Report Part I consists of ~~seven~~ eight sections, five of which are explanatory material as that term is defined in § 42-1411(1), Idaho Code, and three of which are determinations of the Director as required by § 42-1411(2) and (3), Idaho Code. The sections of the report that are explanatory are: this Introduction, a Description of the Water System, the General Provisions, ~~a List of Recommended Water Rights, a List of Claims/Rights Not Recommended,~~ a Name Index, and a Number Index and a Point of Diversion Index. The sections of the report that are determinations of the Director are: the General Provisions, a List of Recommended Water Rights, and a List of Claims Recommended to be Disallowed.

The new text describes the portions of the report as they relate to the current adjudication statute.

The description of the water system includes a brief description of ~~Reporting Area 1 (Basin 34),~~ and an illustration of the boundaries of Basin 34.

The general provisions ~~include~~ consist of: (a) provisions that apply to all water rights in ~~Reporting Area 1 (Basin 34),~~ and (b) provisions that further define or limit certain classes of water rights recommended in the report. These general provisions will affect your water right, BE SURE TO READ THEM.

The water rights in the list of recommended water rights are grouped alphabetically by source, and recommended water rights from each source are listed chronologically by priority date. The rights or claims in the list of claims/~~rights not recommended to be disallowed~~ are listed numerically by water right number.

Brief instructions for interpreting an entry in the list of recommended water rights and the list of claims/~~rights not recommended to be disallowed~~ are found at the beginning of those sections.

SCOPE OF ADJUDICATION

AMENDED DIRECTOR'S REPORT PART I FOR REPORTING AREA 1 (BASIN 34) -- May 27, 1992

a. Except for those uses or rights described in b. and c. below, this report Part I includes the following water rights from Reporting Area 1:

i. All rights existing and appropriated under state law from Basin 34 prior to November 19, 1987.

ii. All water right permits for which proof of beneficial use was filed prior to November 19, 1987.

iii. All water right permits for which proof of beneficial use was filed prior to December 1, 1990 were required to be claimed by order of the Director dated January 2, 1991.

iv. Water rights appropriated under state law and arising on or after November 19, 1987, which were allowed to be claimed in the SRBA but were not required to be claimed in the SRBA and for which claims were filed.

The rights are generally described as they existed on November 19, 1987; however, rights that were the subject of an administrative proceeding before IDWR that was completed pending after November 19, 1987 but prior to the filing of this report are described as of the date the administrative proceeding was completed.

b. Section 42-1409(4), Idaho Code, requires all claims to water rights be filed in an adjudication except those exempted by § 42-1420, Idaho Code. Section 42-1420, Idaho Code, also provides for the conclusive effect of the decree. Thus, water rights not claimed in this adjudication that were required to be claimed will not exist upon entry of the court's decree for Basin 34 Reporting Area 1. The water rights not required to be claimed in this adjudication, or not required to be claimed at this time, include the following:

i. The adjudication of certain small domestic and stock water rights may be deferred as set forth in the orders of the court dated January 17, 1989, entitled Findings of Fact, Conclusions of Law, and Order Establishing Procedures for Adjudication of Domestic and Stock Water Uses, and March 22, 1995, entitled SRBA Administration Order No. 10, Order Governing Procedures in the SRBA for Domestic and Stock Water Uses. Adjudication at a later date of the rights deferred under this order these orders must be done in accordance with the orders. The orders further provides that the claimant of a deferred right must (a) have the right adjudicated prior to seeking authorization from

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IDWR for a change in use pursuant to Idaho Code § 42-222; and (b) ~~t.~~ The right must also be adjudicated before water may be distributed to it by the Director.

The orders ~~apply~~ applies to "deferrable" domestic and stock water rights that existed prior to November 19, 1987, including permits for which proof of beneficial use was filed prior to November 19, 1987, and other permits required to be claimed by order of the Director.

A "deferrable domestic" right is a right to the use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection therewith, including irrigation of up to one-half acre of land, if the total use is not in excess of 13,000 gallons per day. However, a water right cannot be deferred if used, but not including water for multiple ownership subdivisions, mobile home parks, commercial or business establishments, or any other uses, if the total of the other uses exceeds a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. Idaho Code §42-1401A(5) (Supp. 1988-90), §42-111(A) (1990).

This text was added to comply with current law and amended order(s) of the court.

A "deferrable stock water" right is a right to the use of water solely for livestock and/or wildlife where the total use is not in excess of 13,000 gallons per day. Idaho Code §42-1401A(12) (1990).

ii. Water used solely for firefighting purposes is not required to be claimed in the SRBA. Firefighting purposes ~~is~~ are defined in ~~paragraph 10~~ general provision 5 of the general provisions below.

iii. Water rights used solely for instream livestock use are not required to be claimed in the SRBA. A right to instream livestock use that ~~was~~ is not decreed in the SRBA must be adjudicated before water may be distributed to it by the Director.

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"Instream livestock use" means the drinking of water by domestic livestock from a natural stream without the use of any constructed physical diversion works. Idaho Code §42-113 (1990).

iv. Permits for which proof of beneficial use was filed on or after December 1, 1990 are not required to be claimed in the SRBA.

c. ~~Deadlines for filing claims of the United States (including claims on behalf of the Indian Tribes) appropriated under state law were extended by order of the court. These claims will be included in a Supplemental Director's Report Part I for Basin 34 that is proposed to be filed with the SRBA District Court on November 1, 1992.~~ The decree in the SRBA determining rights to water from Reporting Area 1 will supersede all prior decrees determining rights to water from Reporting Area 1, including all prior decree provisions for administration of such rights.

Taken from prior general provision 1.a.

PURPOSE OF THIS REPORT PART I

This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights and matters necessary for administration of water rights in Reporting Area 1 (Basin 34). This report makes no recommendation as to the ownership or the right to the use of facilities or lands used in delivery of a recommended water right, or the lands upon which the recommended water right is used.

For purposes of recommending the water rights in this report, a diversion rate of 0.02 cubic feet per second (CFS) per acre from ground water or 0.0286 CFS (additional 0.0086 CFS to allow for conveyance loss) per acre from surface water, measured at the point of diversion from the water source, was deemed to be the rate of diversion reasonably required for the irrigation of lands, unless the claimant demonstrated that a higher diversion rate is reasonably required due to actual, reasonable conveyance losses, irrigation methods, or field conditions. However, because the irrigation of small acreages of five acres or less can result in lowered irrigation efficiencies, a diversion rate of up to 0.03 CFS per acre was deemed to be the rate of diversion reasonably required for the irrigation of the lands.

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A portion of prior general provision 18.

For purposes of recommending the water rights in this report, the maximum annual volume of water reasonably required for irrigation of lands in Reporting Area 1 is 3.5 acre feet per year (AFY) per acre unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation, or field conditions. J. Peppersack, IDWR File Memo re: Consumptive Irrigation Requirement, Irrigation Field Headgate Requirement and Irrigation Season of Use (December 18, 1991).

Taken from prior general provision 15.

For purposes of recommending the water rights in this report, the maximum annual volume of consumptive use reasonably required for irrigation of lands in Reporting Area 1 is 2.5 AFY per acre. J. Peppersack, IDWR File Memo re: Consumptive Irrigation Requirement, Irrigation Field Headgate Requirement and Irrigation Season of Use (December 18, 1991).

Taken from prior general provision 16.

Unless more water was deemed to be necessary, the combined use of more than one right for irrigation purposes for the same land is recommended to be limited to:

- a. a combined total rate of diversion of .02 CFS per acre from ground water or 0.0286 CFS per acre from surface water,
- b. a combined total annual diversion volume of 3.5 AFY per acre, and
- c. a combined total annual consumptive use volume of 2.5 AFY per acre.

Taken from prior general provision 17.

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The purpose of the report is to make recommendations to the court as to matters that need to be included in the decree so water rights can be efficiently administered once decreed. Once decreed, water rights in Reporting Area 1 will be administered in accordance with the laws governing water right administration including:

a. All ground water appropriators, including geothermal and non-geothermal ground water appropriators and ground water appropriators for domestic use, shall be subject to reasonable pumping levels as set forth in § 42-237a, Idaho Code.

Taken from prior general provision 5.

b. Basin 34 is considered tributary to the Snake River, however, surface water flows from the basin either sink into the ground water within Basin 34 or, during periods of good water supply, surface flows reach the desert southeast of Arco and sink into the Eastern Snake Plain Aquifer. The surface water from Basin 34 never connects with the surface flows of the Snake River. The Basin 34 ground water moves southeasterly past Arco and also joins the Eastern Snake Plain Aquifer. The Swan Falls Agreement identifies Basin 34 to be within the trust water area. Generally accepted data quantifying the contribution of Basin 34 to the Eastern Snake Plain Aquifer is not presently available. However, it is generally accepted that the Basin 34 contribution to the annual recharge of the Eastern Snake Plain Aquifer is relatively small. Therefore, the water sources in Basin 34 are not subject to distribution as part of the Eastern Snake Plain Aquifer at this time, but may become subject to such distribution if the Director determines that such distribution is necessary to protect senior water rights. The Director has adopted the "Rules for Conjunctive Management of Surface and Ground Water Resources," IDAPA 37.03.11, for the distribution of ground water in Idaho, including the Eastern Snake Plain Aquifer.

Taken from prior general provision 7.

c. The Director has adopted the "Idaho Department of Water Resources Water Distribution Rules - Water District 34," IDAPA 37.03.12, for the distribution

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of water within Basin 34 pursuant to an order for interim administration or the decree in the SRBA.

d. Administration of water rights for small domestic and stock water uses will occur as follows:

i. Small domestic and stock water rights from surface water are subject to administration to provide water to senior water rights from the water system.

ii. Small domestic and stock water rights from ground water are not subject to administration at this time. However, these rights may be made subject to administration to provide water to senior water rights from the water system if the Director determines that administration is necessary.

iii. An appropriator who has elected to defer adjudication of a deferrable small domestic and stock water right must have the right adjudicated before water will be distributed pursuant to the right by the Director. The Director may, however, curtail the delivery of water to an unadjudicated deferred domestic and/or stock water right if the Director determines such curtailment is necessary to protect senior water rights.

A portion of prior general provision 6.

d. The Director has determined it necessary for most surface water diversions and for all non-de minimis ground water uses to be measured and regulated by the water master for the proper administration of the use of water within the basin. The Director may require water users to install and maintain additional measuring devices and control works, of a type acceptable to the Director, if necessary for the proper administration of the use of water in the future.

Taken from prior general provision 9.

All water rights recommended herein remain subject to state law, including but not limited to laws governing water right administration and water quality. In particular, any change in the point of diversion, place of use, season of use, purpose

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of use, or place of use of the water right must be approved by the Director, pursuant to applicable law, prior to making the change. A future application for change in use that seeks to separate rights previously used in combination will be limited by the Director in accordance with the statutory requirements to prevent any expansion of the rights beyond the current use of the rights combined. Idaho Code § 42-1421(4) (6) (1994).

Rights shown in the listing of water rights with a basis of "permit" are in the process of perfection in accordance with the current statutory appropriation method. A right with a basis of permit is conditioned upon completion of the appropriation in accordance with the statutory procedure for appropriation of water rights, remains subject to all conditions set forth in the permit, and will be subject to all conditions set forth in any license issued by IDWR upon completion of the statutory appropriation process. Idaho Code § 42-1421(3) (1994).

DESCRIPTION OF THE WATER SYSTEM: REPORTING AREA 1 (BASIN 34)

BOUNDARIES OF BASIN

The boundaries of Reporting Area 1 (Basin 34) are illustrated in Figure 1. More detailed maps, including Orthophotoquad maps with land use overlays based upon Landsat satellite imagery, are available in IDWR's Idaho Falls office and IDWR's state office in Boise. In addition, color infrared photography of Basin 34 is available in IDWR's Idaho Falls office.

The basin is approximately 1,400 square miles in area and includes portions of Custer, Butte, Bonneville, and Jefferson counties in eastern Idaho. It is comprised primarily of the Big Lost River drainage, but includes other small surface drainages to the southwest of the Big Lost River drainage, as well as the Idaho National Engineering Laboratory reservation to the east of the Big Lost River drainage. The basin is bounded by the mountains of the Big Lost Range to the northeast, by the Boulder Mountains to the northwest, and the Pioneer Mountains to the southwest. Tributaries of the Big Lost River flow from these mountains to the river, which flows in a generally southeasterly direction past the town of Arco. The Big Lost River then flows in a generally northeasterly direction, before the water sinks and becomes part of the supply of the Eastern Snake River Plain Aquifer. One storage facility, Mackay Reservoir, is located on the Big Lost River in the northwestern part of the basin.

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Water supply in the basin is highly variable from year to year and within the year, although there is a consistent pattern of highest flows in the late spring and lowest flows in the late summer. There is a high level of interaction between ground and surface water. Spring snowmelt and rainfall recharge both the ground water and the streams. In some areas, the ground water within the Big Lost River basin recharges the stream (the stream "rises"), while in other areas, the stream recharges the ground water (the stream "sinks"). The recharge pattern varies from year to year and within the year, as the level of the water table changes. There is a substantial flow of ground water from the basin to the Eastern Snake River Plain Aquifer.

DEVELOPMENT OF WATER USE

Development in the basin is primarily agricultural, except for the Idaho National Engineering Laboratory located in the southeast end of the basin and the city of Arco. Substantial surface water development first occurred in the late 1800's, primarily for irrigation of lands along the thread of the river and tributaries. Surface water storage

Figure 1

was developed in the 1910's with the construction of Mackay Dam and Reservoir. The stored waters were used both to supplement surface water supplies for previously irrigated lands, and to irrigate new lands, extending the boundaries of the irrigated areas farther from the surface sources. Mackay Dam and Reservoir were purchased by the Big Lost River Irrigation District in 1935 at which time the new lands developed prior to 1935 with water from the reservoir were abandoned and all water was then used on lands developed prior to 1906. Since 1935 stored water from Mackay Reservoir has been applied to expanded acreage. Substantial ground water development began in the 1950's and 1960's. Ground water has been used to supplement surface water and storage water supplies for previously irrigated lands and to irrigate new lands, again extending the boundaries of the irrigated areas farther from the surface sources. Current irrigated acreage in the basin is approximately 67,000 acres, with the areas above Mackay Reservoir used primarily for livestock, and the areas below Mackay Reservoir used primarily for crop production.

GROUND WATER IN BASIN 34

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Diversion of ground water pursuant to rights with points of diversion located upgradient (northerly) of Line A in Figure 2 reduce the flow of the Big Lost River upstream from the last (most downstream) diversion from the Big Lost River. Diversion of ground water pursuant to rights with points of diversion located downgradient (southerly) of Line A in Figure 2 do not reduce the flow of the Big Lost River upstream from the last (most downstream) point of diversion.

Figure 2

GENERAL PROVISIONS

The Director recommends that the following general provisions be included in the decree determining rights to water from **Reporting Area 1 (Basin 34)**.

~~GENERAL PROVISIONS 1 - 11-5 APPLY TO ALL WATER RIGHTS IN REPORTING AREA 1 (BASIN 34).~~

1. ~~EFFECT OF ADJUDICATION:~~

~~a. The decree determining rights to water from Basin 34 supersedes all prior decrees determining rights to water from Basin 34, including all provisions for administration of such rights. Upon entry of the decree determining rights to water from this sub-basin, any right which was required to be claimed in this adjudication and which was not claimed will no longer exist.~~

Moved to explanatory material portion of the report.

~~b. Nothing herein shall be deemed to diminish the Director's authority to administer water rights of Basin 34 pursuant to applicable law. Determinations vested in the Director herein are subject to state laws limiting the exercise of administrative discretion.~~

2. ~~GENERAL ADMINISTRATION PROVISIONS DEFINITIONS.~~

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a. The Howell gage is located above Mackay Reservoir in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 30, Township 8 North, Range 21 East, B.M.

b. The 2-B gage is located below Mackay Dam in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, Township 7 North, Range 24 East, B.M.

~~c. The Arco gaging station is located near the town of Arco in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, Township 3 North, Range 27 East, B.M.~~

~~d. "AFY" when used in this report means acre foot per calendar year, and "CFS" means cubic foot per second.~~

~~e. References to the "Director" in these general provisions refer to the Director of the Idaho Department of Water Resources (IDWR) or the Director's duly authorized designee including the watermaster.~~

The terms from d. and e. are defined in the explanatory material portion of the report and c. is not used.

~~3. CONJUNCTIVE ADMINISTRATION. Where these general provisions provide for two or more water sources to be administered as a single water system; diversion pursuant to junior rights from one water source may be curtailed when necessary to provide water to senior rights from the other water source. Where these general provisions provide that a water source is to be administered separately from another water source, then diversion pursuant to junior rights from the first water source is not subject to curtailment to provide water to senior rights from the other water source.~~

~~4.2. ADMINISTRATION OF SURFACE SOURCES WITHIN BASIN 34. All surface waters of the Big Lost River and its tributaries shall be administered as a single water system, except as provided in this paragraph 4 general provision 2.a. through 4.2.c.~~

a. During the irrigation season, from the time the flow at the Howell gage increases to 750 CFS, until the time when the flow recedes to 300 CFS, all surface waters of the Big Lost River and its tributaries, except as listed in paragraph b. below, shall be administered as a single water source. At all other times natural flow water rights (other than water rights for storage purposes) with a point of diversion above Mackay Reservoir shall be administered separately from the natural flow water rights with a point of diversion downstream from Mackay Reservoir. This provision is made under conditions existing as of the commencement of the SRBA (including diversions above the Howell gage); if diversions are made from the Big Lost River or its

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tributaries above the Howell gage pursuant to rights not existing as of the commencement of the SRBA, then the amounts diverted will be added to the amount of the flow at the Howell gage for the purposes of applying this provision.

b. The surface waters of the following streams shall be administered as separate from the surface waters of the Big Lost River: Rock Springs Creek, Rock Creek, Beda Creek, Corral Creek, Sage Creek, Upper Cedar Creek, Lower Cedar Creek, Dry Creek (also known as Cedar Creek), Pete Creek, Willow Creek, Pinto Creek, Lehman Creek, Vance Creek, Grant Creek and Hamilton Creek.

c. The Back Channel, which separates from the main channel of the Big Lost River in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 5, Township 8 North, Range 22 East, B.M., shall be administered as part of the natural channel of the Big Lost River.

i. When the flow at the Howell gage is less than 1400 CFS, the flow in the Back Channel shall be kept as near as practicable to 150 CFS ~~as determined by the Director~~, but shall not exceed that amount.

ii. When the flow of the Howell gage is at or exceeds 1400 CFS, the flow in the Back Channel shall be kept as near as practicable to 200 CFS ~~as determined by the Director~~. The flow shall not exceed that amount unless all surface water rights existing at the time of administration (including water rights with a junior priority), and that are within their period of use, are satisfied.

iii. These provisions shall not be considered to enlarge the amount of water to which appropriators diverting from the Back Channel are entitled.

~~iv. The water users of water district 34 may elect (in the manner prescribed by statute) that a measuring device and control works shall be installed at the head of the Back Channel. In this event, the costs of installation and maintenance shall be borne by the water users of water district 34 as costs of the water district in the manner prescribed by statute. The measuring device and control works shall be of a type approved by the Director, and must be approved prior to installation.~~

~~5. ADMINISTRATION OF GROUND WATER WITHIN BASIN 34. Ground water appropriators shall not be entitled to maintenance of historic pumping levels.~~

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Moved to explanatory material portion of the report.

63. CONJUNCTIVE ADMINISTRATION OF GROUND AND SURFACE WATER RIGHTS WITHIN BASIN 34.

a. Some ground water rights in the list of water rights are described as contain a remark noting that the right will being administered as separate from the Big Lost River and its tributaries. All other ground water rights not so described will be administered as part of the Big Lost River and tributaries unless the ground water user can show to the satisfaction of the Director, that due to well construction or location, the diversion of ground water from a particular point of diversion does not reduce the flow of the Big Lost River above the last (most downstream) diversion from the Big Lost River.

~~{The following explanation as to the effect of this general provision is for informational purposes only, and is not recommended to be included in the court's decree. Administration of these rights as part of the Big Lost River and its tributaries will result in curtailment of these diversions in most years. While this will protect senior surface water rights, such administration would not promote the public purpose of full economic development of underground water resources. Therefore, the Director will not require curtailment of these diversions if a plan, acceptable to and approved by the Director, is in place to provide mitigation or compensation to those holding prior surface water rights in a manner to assure the availability of water to the surface water rights in amounts that would be available absent junior ground water diversions or other substantially equivalent mitigation or compensation.}~~

~~b. Small domestic and stock water rights from ground water are not subject to administration at this time; however, these rights may be made subject to administration in the future to provide water to senior water rights from the water system.~~

Moved to explanatory material portion of the report.

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7. ~~ADMINISTRATION OF BASIN 34 AND SNAKE RIVER BASIN. All water rights in Basin 34 shall be subject to administration as part of the Snake River Plain Aquifer.~~

Moved to explanatory material portion of the report.

~~[The following explanation of the effect of this general provision is for informational purposes only, and is not recommended to be included in the court's decree. The Director's plan for administration of the Snake River Plain Aquifer will give due consideration to the priority dates, location and actual impact of water diversions in Basin 34 on the Snake River Plain Aquifer.]~~

84. SPECIAL PROVISIONS AS TO STORAGE.

a. Mackay Dam and Reservoir shall be operated to maintain a minimum flow of 50 CFS at the 2-B gage. This 50 CFS shall be deemed unavailable for delivery to surface water rights below Mackay Dam outside the irrigation season.

b. Water rights that do not include storage as a purpose of use may not be stored. Surface water rights may, however, be rotated into storage, with the approval of the Director of the Idaho Department of Water Resources and the Big Lost River Irrigation District, when such practice improves the efficiency of water use as contemplated by the Irrigation District's plan of operation. Any water stored under such a rotation, if not used in the same irrigation season in which it is stored, shall revert to storage water of the Big Lost River Irrigation District at the end of the irrigation season. Rotation into storage cannot occur prior to the need for irrigation water on the land, as determined by the Director, in any year; water rotated into storage may only be used on the land to which the water right being rotated is appurtenant ~~(water rotated into storage may not be marketed)~~; if the reservoir fills after rotation has begun in any year and 1905 priority natural flow water rights are able to receive water, all rotation credits are lost and all water in the reservoir at the time it fills reverts to storage water of the Big Lost River Irrigation District.

~~c. Mackay Reservoir shall be full when the water surface elevation of the reservoir is at the spillway crest elevation of 6066.12 feet above mean sea level as determined by the Director.~~

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Moved to individual water rights.

~~9. MEASURING DEVICES AND CONTROL WORKS. In addition to measuring devices or control works specifically described in the listing of the water right, each appropriator shall, at the appropriator's expense, install and maintain measuring devices and control works of a type acceptable to the Director, at all points of diversion and any other points, as determined necessary by the Director for the proper administration of the use of water. The Director may prohibit or prevent the diversion of water by an appropriator who refuses or fails to comply with this provision.~~

Moved to explanatory material portion of the report.

105. FIREFIGHTING PURPOSES.

a. Firefighting purposes is an alternate use to ~~for~~ which any water right may be put used, and firefighting is recognized as a lawful use of water with or without a water right.

b. Firefighting purposes means the use of water in times of emergency: to extinguish an existing fire on private or public lands, facilities, or equipment; to prevent an existing fire from spreading to private or public lands, facilities, or equipment within the vicinity of and endangered by an existing fire; and by firefighting personnel engaged in fighting an existing fire. Firefighting purposes does not include the use of water to prevent a fire from occurring in the future, the use of water for domestic purposes in regularly maintained firefighting stations, or the storage of water for fighting future fires.

~~11. CONSUMPTIVE USE. Where consumptive use is not stated for a right or a portion of a right, the consumptive use for that right or that portion of the right is so small that it is deemed de minimis.~~

~~GENERAL PROVISION 12 APPLIES TO ALL WATER RIGHTS IN BASIN 34 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE.~~

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~~12. DOMESTIC USE. Domestic use, when shown as the purpose of use for a right or a portion of a right, is:~~

~~a. the use of water in a home or homes, and for other purposes in connection therewith, including up to one-half acre total of irrigation per water right, or~~

~~b. the use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection therewith, including irrigation of up to one-half acre of land, if the total use is not in excess of 13,000 gallons per day, but not including water for multiple ownership subdivisions, mobile home parks, commercial or business establishments, or~~

~~c. the use of water for any beneficial uses, if the total use of the right does not exceed a diversion rate of 0.04 CFS and a diversion volume of 2500 gallons per day.~~

~~For rights or portions of rights that meet the definition of paragraph b, the annual volume of diversion is the volume actually diverted and beneficially used, subject to a maximum of 13,000 gallons per day. For rights or portions of rights that meet the definition of paragraph c, the annual volume of diversion is the volume actually diverted and beneficially used, subject to a maximum of 2500 gallons per day.~~

~~GENERAL PROVISION 13 APPLIES TO ALL WATER RIGHTS IN BASIN 34 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE.~~

~~13. STOCK WATER USE. Stock water use, when shown as the purpose of use for a right or a portion of a right, is:~~

~~a. the use of water for care and/or watering of livestock, or~~

~~b. the diversion and use of water for care and/or watering of livestock and/or wildlife where the total use of the right does not exceed a diversion volume of 13,000 gallons per day. Other uses of water for wildlife are shown with a purpose of use of wildlife.~~

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~~For rights or portions of rights that meet the definition in paragraph b, the annual volume of diversion is the volume actually diverted and beneficially used, subject to a maximum of 13,000 gallons per day.~~

GENERAL PROVISIONS 14 - 19.6 APPLY TO ALL WATER RIGHTS IN REPORTING AREA 1 (BASIN 34) SHOWN WITH IRRIGATION AS A PURPOSE OF USE.

146. IRRIGATION USE. Water rights or portions of water rights shown with a purpose of use for irrigation include the following:

a. Incidental stock water. When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use ~~may~~ can be diverted and used, from the same point of diversion and at the same place of use as the irrigation use, for purposes of maintaining a reasonable water supply for stock watering ~~use during the period of use for irrigation described in the water right.~~

b. Early-season irrigation and late-season irrigation. The period of use of rights or portions of rights from ~~surface water the Big Lost River~~ for irrigation purposes may begin as early as April 20 and continue as late as October 31 if the Director determines that water is reasonably necessary for irrigation. In addition, the Director ~~may allow the diversion of water from surface water tributaries to the Big Lost River under rights or portions of rights for irrigation use can occur either before or after the period of use for irrigation described in the water right where:~~

i. ~~the water so diverted is applied to a beneficial use for irrigation, including incidental stock watering, as determined by the Director,~~

ii. all water rights ~~diverting from the same or a common source,~~ regardless of priority (now existing or developed subsequent to this decree), existing at the time of diversion that are within their period of use can be satisfied, and

iii. ~~no element of the water right, other than season of use, is exceeded or violated by the early season or late season use,~~

iv. the diversion and use of the water does not conflict with the ~~local public interest, and as determined by the Director.~~

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~~v. the irrigation water user utilizing this provision assumes all risk that the criteria of this general provision are satisfied.~~

c. ~~Diversion of additional flows. The Director may allow a~~ quantity of surface water in addition to the quantity of surface water described for irrigation use ~~to can be diverted for irrigation of the described place of use so long as where:~~

i. ~~the waters so diverted are applied to a beneficial use for irrigation, as determined by the Director,~~

ii. ~~all water rights diverting from the same or a common source, regardless of priority (now existing or developed subsequent to this decree), existing at the time of diversion that are within their period of use can be satisfied, and~~

iii. ~~no element of the water right, other than quantity, is exceeded or violated by the diversion of additional flows,~~

iv. ~~the diversion and use of the water does not conflict with the local public interest, and as determined by the Director.~~

~~v. the irrigation water user utilizing this general provision assumes all risk that the criteria of this general provision are satisfied.~~

~~15. DIVERSION VOLUME FOR IRRIGATION. The maximum annual volume of water reasonably required at the field headgate for irrigation of lands in Basin 34 is 3.5 AFY per acre. Where diversion volume is not stated for water rights or portions of water rights for irrigation purposes, 3.5 AFY per acre is the diversion volume measured at the point of diversion from the water source that is reasonably required for irrigation unless a higher annual diversion volume is reasonably required under currently existing conditions due to conveyance losses, method of irrigation, or field conditions, as determined by the Director.~~

Moved to explanatory material portion of report.

~~16. CONSUMPTIVE USE FOR IRRIGATION.~~

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- ~~a. The maximum annual volume of consumptive use required for irrigation of lands in Basin 34 is 2.5 AFY per acre.~~
- ~~b. Where the purpose of use for a portion of a right is shown as irrigation, and the remainder of the right is for other purposes, the consumptive use shown is the consumptive use for the irrigation portion of the right only, unless otherwise stated in remarks.~~

Moved to explanatory material portion of report.

~~17. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. Unless specifically stated otherwise in the water right, the combined use of more than one right for irrigation purposes is limited to:~~

- ~~a. a combined total rate of diversion of 0.02 CFS per acre for water rights from ground water, or a total combined rate of diversion of 0.0286 CFS per acre for water rights from surface water,~~
- ~~b. a combined total annual diversion volume of 3.5 AFY per acre, or a greater volume per acre as provided in paragraph 15 above, and~~
- ~~c. a combined total annual consumptive use volume of 2.5 AFY per acre.~~

Moved to explanatory material portion of report.

~~18. CONVEYANCE LOSSES. The rate of flow generally required at the field headgate for irrigation of lands in Basin 34 is 0.02 CFS per acre. For purposes of determining the water rights in this report, 0.02 CFS per acre was deemed to be the rate of diversion, measured at the point of diversion from the water source, reasonably required for the irrigation of lands unless the claimant demonstrated that a higher diversion rate is reasonably required:~~

- ~~a. The total per acre rate of diversion, measured at the point of diversion from a surface water source, shown for some rights is greater than 0.02 CFS per acre. This is due to actual conveyance losses in the distribution system. Although diversion amounts greater than 0.02 CFS per acre, but not greater than 0.0286 CFS~~

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~~per acre, are not specifically identified in the water right, amounts in excess of 0.02 CFS per acre that are not specifically identified in the surface water right are limited to use for conveyance losses:~~

~~----- b. ----- Some water rights are shown with a remark limiting the right or a portion of the right to use for conveyance losses in delivery of the right and/or other rights. When a remark is included in the listing of water rights limiting a right or a portion of a right to use for conveyance losses, the total per acre rate of diversion shown for the right (including conveyance losses specifically noted in remarks) is greater than 0.02 CFS per acre for ground water rights and greater than 0.0286 CFS per acre for surface water rights.~~

~~----- c. ----- In those cases in which the water right(s) includes an amount in excess of 0.02 CFS per acre for conveyance loss, the total amount shown for the right(s) includes:~~

~~----- i. ----- the standard amount generally required for the purpose of use of the right, which includes reasonable conveyance losses associated with such uses, plus~~

~~----- ii. ----- an additional amount required for conveyance losses in the particular distribution system determined to be reasonable under currently existing conditions.~~

~~----- d. ----- Diversion of rights or portions of rights limited to use for conveyance losses may continue so long as:~~

~~----- i. ----- the use does not constitute unreasonable waste, as determined by the Director, and~~

~~----- ii. ----- the use does not conflict with the public interest, as determined by the Director.~~

Paragraph a. moved to explanatory material portion of report.

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27, 1992

Signed this _____ day of May, 1992.

R. KEITH HIGGINSON

Director

Idaho Department of Water Resources

CLIVE J. STRONG

Deputy Attorney General

Chief, Natural Resources Division

A. LYNNE KROGH-HAMPE

Deputy Attorney General

Idaho Department of Water Resources

AMENDED DIRECTOR'S REPORT PART I FOR REPORTING AREA 1 (BASIN 34)

Instructions for Use of List of Recommended Water Rights

The recommended water rights are listed alphabetically by source, and the recommended water rights for each source are listed chronologically by priority date. The organization by source, which is shown near the top of each page, is useful for comparing a water right with the other water rights from the same source that could affect each other. To aid in locating an individual water right, three indexes (name, water right number, and point of diversion) are also provided in this report.

Each water right in the listed as a of recommended water rights includes a description of the following elements:

RIGHT NUMBER: Each right includes a water right number assigned by IDWR for identification purposes. The first two digits of a water right number indicate IDWR's administrative basin number.

NAME AND ADDRESS: The name and address of the claimant shown in the list of recommended water rights is the name and address shown on the notice of claim, or on the most recent notice of change in address or change in ownership properly filed pursuant to Idaho Code § 42-1409(76).

SOURCE: The source is the water body to which the claimant has a right. For surface water sources, the list of recommended water rights also shows the water body to which the source is tributary. The source is shown at the top of each page in the list of recommended water rights. Those water rights having more than one source are listed under each source but include all sources in each listing of the water right.

MAXIMUM QUANTITY: The quantity of the right is the maximum rate of flow in cubic feet per second (CFS) and/or the maximum volume of water in acre feet per calendar year (AFY). Maximum quantity is shown for each purpose of use in addition to the total maximum quantity for the water right. Except for instream flow rights or where otherwise stated in the recommended water right, the maximum quantity is the quantity diverted (and stored, for rights that include storage purposes) at the point of diversion. In some instances the total quantity shown in the description of the water right is less than the sum of the quantities for the individual uses because of physical constraints or because of limitations on the combined amounts of water claimed.

Maximum volume is not shown for some water rights or some portions of

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water rights. Where a total maximum volume is stated for a right, but is not stated for some portion of the right, then the maximum volume for that portion is not included in the total.

CONSUMPTIVE USE: Consumptive use is the amount of water that does not remain in the water system after use or is not returned to the water system through return flows or seepage. The numerical quantity shown in the listing of recommended water rights is the maximum annual volume of consumptive use in AFY. For water rights or portions of water rights that do not include a numerical amount for consumptive use, the consumptive use for the water right or portion of a water right is *de minimis*, which means it is small or trifling. Where the purpose of use for a portion of a right is irrigation and the remainder of the right is for other purposes, the consumptive use shown is the consumptive use for the irrigation portion only, unless otherwise stated in the water right.

PRIORITY DATE: This is the calendar date which is used to determine the relative priority of the right in relation to other rights from the same source, and is determined based on the method of appropriation.

POINT OF DIVERSION: The point of diversion is the point at which water is diverted from the source, and is generally indicated in the list of recommended water rights by a legal description of the 40 acre tract ($\frac{1}{4}$ $\frac{1}{4}$ section or 1/16 section) or government lot within which the point of diversion is located. In some instances, the point of diversion is indicated by a legal description of the ten acre tract ($\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ section or 1/64 section) within which the point of diversion is located.

If the point of diversion is alternatively known by another legal description, which IDWR has in its files, the alternate legal description is included in remarks a statement in the listing of the water right. Some alternate legal descriptions are provided as explanatory material where the alternate legal description supplements the public land survey legal description. In those cases in which the alternate legal description is in lieu of the public land survey legal description, the alternate legal description is shown under the point of diversion. Alternate legal descriptions include: lot, block and subdivision or townsite names; parcel numbers from the county assessor's records of the county in which the property is located; HES or homestead entry surveys; mining claim names or numbers; other surveys where the land is located in areas not covered by the public land survey.

A point of diversion listed with a "B" suffix indicates the beginning point of an instream flow right segment. A point of diversion listed with an "E" suffix indicates

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the ending point of an instream flow-right segment.

A point of diversion listed with an "I" suffix indicates a point of injection, and a point of diversion listed with an "R" suffix indicates a point of redirection. Points of injection and redirection are indicated where water is diverted from one source, injected into another source, and then redirected, or where water from one source is exchanged with water from another source.

Public land survey legal descriptions in the listing of water rights appear, for example, as:

T06S R01W S17 NESWNW

T06S is the abbreviation of township 6 south (the direction for townships will always be S for south or N for north).

R01W is the abbreviation of range 1 west (the direction for ranges will always be W for west or E for east).

S17 is the abbreviation for section 17.

NESWNW is the abbreviation of NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, and

NE is the 1/64 section,

SW is the 1/16 section, and

NW is the 1/4 section.

or, in the case of public land surveys involving government lots, the legal description appears, for example, as:

T03S R04W S02 LOT 3 (NWNENW)

The township, range and section descriptions are designated in the same manner as those above.

LOT 3 is the abbreviation for government lot 3.

(NWNENW) is the abbreviation of NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, but is enclosed in parenthesis since this is the projection of the actual legal description given by the government lot.

PURPOSE OF USE: Purpose of use indicates the general category of the type of beneficial use made of the water; typical purposes include irrigation, domestic, and stock water purposes uses.

PERIOD OF USE: The period of use is the portion of the calendar year when water may can be used for a particular purpose. The dates shown in the list of recommended water rights are the beginning and ending dates of the period of use and are read as "04-01 through 11-15" and are inclusive.

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PLACE OF USE: The place of use is the location where water is used, which is generally indicated in the list of recommended water rights by a legal description of the 40 acre tract ($\frac{1}{4}$ $\frac{1}{4}$ section or 1/16 section) or government lot where the water is used. For irrigation rights, the number of irrigated acres in each 40 acre tract or government lot is ~~generally listed alongside after the description of the each tract or lot when required by statute. The description of irrigation rights held by irrigation districts and the description of other large irrigation rights do not normally include the number of irrigated acres in each tract or lot. See the description of public land survey legal descriptions above.~~

If the place of use is alternatively known by another legal description, which IDWR has in its files, the alternate legal description is included in ~~remarks a statement in the listing of the water right. Some alternate legal descriptions are provided as explanatory material where the alternate legal description supplements the public land survey legal description. In those cases in which the alternate legal description is in lieu of the public land survey legal description, the alternate legal description is shown under the place of use.~~ Alternate legal descriptions include: lot, block and subdivision or townsite names; parcel numbers from the county assessor's records of the county in which the property is located; HES or homestead entry surveys; mining claim names or numbers; other surveys where the land is located in areas not covered by the public land survey.

BASIS OF RIGHT CLAIM: The basis of ~~right claim~~ is the method by which the water right was established or the document that evidences the water right. The basis of ~~right claim~~ may be a decree (where the water right was previously adjudicated by a court), posted notice (an historical method of appropriation that is no longer available); beneficial use (an historical method of appropriation that is available only in limited circumstances ~~today at the time of this report~~); permit (where IDWR ~~has~~ approved an application for a new appropriation); or license (where an appropriation has been completed pursuant to a permit).

OTHERS MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THE WATER RIGHT: The elements of a water right include ~~such other elements as are necessary to define or administer the right. In the list of recommended water rights, any other elements necessary for these purposes are included in the listing of to define the right are listed under "remarks" or "non-irrigation uses."~~

AMENDED DIRECTOR'S REPORT PART I FOR REPORTING AREA 1 (BASIN 34)

Instructions for Use of List of Claims/~~Rights Not Recommended to be Disallowed~~

The list of claims/~~rights not recommended to be disallowed~~ includes the claims or other water right records of IDWR, which have been investigated by IDWR and are recommended to be determined by the district court not to exist, ~~unless the claim or right was not required to be claimed.~~

The disposition of a claim included in the list of claims/~~rights not recommended to be disallowed~~ will be in one of the following categories:

- a. Disallowed: notices of claims filed and recommended for disallowal,
- b. ~~Not claimed: water right records of IDWR for which no claim was filed;~~
- ~~c. Rejected: claims that were not properly filed and were returned to the claimant;~~
- ~~d. Withdrawn: claims that were filed and were subsequently withdrawn by the claimant.~~

Where a claim was recommended as disallowed or rejected, a short statement of the reason for disallowal or rejection is stated in the listing for the claim.

~~Where no claim was filed for a water right record of IDWR, and the water right record describes a water right that was required to be claimed in the adjudication and is not subject to deferral, the listing of the water right record includes the remark, "Right will cease to exist upon entry of decree." Where no claim was filed for a permit and the permit was lapsed or relinquished, the listing of the water right record includes the remark "Permit lapsed" or "Permit relinquished." Records listed with any of these remarks are recommended to be determined not to exist.~~

~~Where no claim was filed for a water right record of IDWR, and the listing of the water right record does not include this remark, either a) the water right record described a use that was not required to be claimed or was subject to deferral, or b) it could not be determined from an examination of the water right record whether it was required to be claimed or was subject to deferral. If the right was required to be claimed and not subject to deferral, the right will be deemed not to exist upon entry of the court's decree of water rights for this basin.~~

ATTACHMENT 2

The Idaho Department of Water Resources (IDWR) previously filed IDWR's Report for September 19, 1995 Status Conference (September Report), in which it responded to the request of the court to outline proposals to address a number of matters of concern to IDWR, the court and the parties in the SRBA. In response to a subsequent request of the court, IDWR prepared an Amended Director's Report for Reporting Area 1 (Basin 34) (Amended Basin 34 Report), which amends the "preamble" to the Director's Report for Reporting Area 1 (Basin 34) (Basin 34 Report). IDWR has also submitted an Amended Director's Report for Reporting Area 2 (Basin 57) and an amended Director's Report for Reporting Area 3 (Basin 36). IDWR will amend its recommendations of claims in the test basins at a later date, as further described below. The Amended Basin 34 report is filed pursuant to section 34 of the 1994 amendments to the adjudication statute for the purpose of conforming the report to the new requirements of the statute.¹

PURPOSE OF THE AMENDMENTS

The purpose of these amendments include the following.

1. To address concerns identified by the Presiding Judge (and in some instances, by the special masters in subcase proceedings) as to general provisions (GPs) in the preamble of the report and remarks in the descriptions of individual rights, and the scope of matters included in the list of claims/rights not recommended.² See September Report, item 1.
2. To incorporate amendments that will resolve or promote the resolution of objections to GPs and to remarks in the descriptions of individual rights. See September Report, item 1.³
3. To separate explanatory material from material IDWR recommends be included in the decree of water rights pursuant to the 1994 amendments to the adjudication statute. See September Report, item 1.

¹ 1994 Idaho Sess. Laws 1490.

² Although the form and content of the director's reports is a matter within the discretion of the director, IDWR continues its commitment to achieve a reasonable resolution of the concerns of the court and the claimants regarding the form and content of director's reports. See Idaho Code §42-1411.

³ As noted in the September Report, IDWR has commenced efforts to resolve objections to GPs through settlement. IDWR strongly maintains that disputes are most effectively resolved through mutual agreement, and that continued efforts toward settlement as part of further proceedings on objections will result in the resolution of many, and perhaps most, contested issues.

4. To conform the recommendations to the amnesty statutes in the 1994 amendments to the adjudication statute. See September Report, item 2.

5. To update recommendations to include changes in address or ownership of record with IDWR, and changes pursuant to final administrative actions by IDWR,⁴ that occurred since the filing of the director's report. See September Report, item 3.

6. To correct errors in the description of individual water rights, particularly those identified in recommendations that are currently uncontested. See September Report, item 2, page 9.

7. To include recommendations as to late claims filed after the filing of the director's report. See September Report, item 2, page 9.

AMENDMENTS TO THE "PREAMBLE" TO THE DIRECTOR'S REPORT

The preamble to the Basin 34 Report is that portion found at pages 1, A-i, and B-i. Attachment 1 to the Amended Basin 34 Report shows both the original text and the amendments; text to be deleted is shown in an overstrike format and text to be added is shaded (redlined). Where the amendments relocate text within the preamble, Attachment 1 also includes a notation describing the change.

As noted above, one of the purposes of the amendments is to separate explanatory material from material IDWR recommends be included in the decree. In the amended preamble, the material IDWR recommends be included in the decree is set forth in the amended general provisions. The explanatory material is set forth in the introduction and the description of the water system, the instructions for using the list of recommended claims, and the instructions for using the list of claims recommended to be disallowed.

As noted above, another purpose of these amendments is to address concerns identified by the court as to the general provisions found in the preamble. Although IDWR believes that the general provisions in the Basin 34 Report are appropriate, IDWR has concluded that shortening and revising the general provisions will narrow the issues to be resolved in the SRBA, thereby expediting the continued progress of the SRBA without significantly diminishing IDWR's ability to efficiently administer the water rights once decreed.

The amendments therefore substantially reduce the number of general provisions. This reduction is accomplished in three ways: by moving the text to the

⁴ These include, for example, decisions approving applications for change in use pursuant to Idaho Code §42-222 and licenses issued for a water right previously claimed and recommended based upon a permit.

explanatory portion of the preamble, by deleting the text, or by moving the text into each of the individual water rights to which it applies.

Finally, a third purpose noted above is to resolve or promote the resolution of objections to the general provisions. The amendments include changes that IDWR has concluded are appropriate and that IDWR believes will address concerns identified by the objectors. These changes include the removal or relocation of general provisions noted above, and limited amendments to the text of remaining general provisions.

A. EXPLANATORY MATERIAL: Introduction, Description of the Water System

This section of the Amended Basin 34 Report includes the following changes.

1. Text previously set forth in the descriptive summary is moved to the beginning of the introduction, which is expressly identified as explanatory material in the instructions for using the report. Amended Basin 34 Report, page 1.

2. The subsection within the introduction captioned "instructions for using this report part I" identifies the various sections of the report. This subsection now identifies which sections are explanatory and which are recommended to be decreed. The instructions also identify a new section, a point of diversion index. The capability to index rights by point of diversion was developed in response to requests of water users after the filing of the Basin 34 Report, and the index will be included with the amendments to the description of the individual rights, discussed further below. Finally, one section previously captioned the "list of claims/rights not recommended," is recaptioned as the "list of claims recommended to be disallowed." Amendments to this list are further described at part D below. Amended Basin 34 Report, page 1.

3. The subsection within the introduction captioned "scope of adjudication" includes revisions to paragraph (b) resulting from issuance of SRBA Administrative Order No. 10. Amended Basin 34 Report, page 2.

4. The subsection within the introduction captioned "purpose of this report part I" includes text moved from the general provisions to explanatory material. Amended Basin 34 Report, page 4.

B. GENERAL PROVISIONS (GPs)

The disposition of each GP in the Basin 34 Report is described below.

1. General Provision 1

Paragraph (a) of GP 1 is a statement of the effect of the decree, which is commonly found in water right decrees. Although the effect of the decree is a

provision of general law, it is a provision that every claimant needs to know. The amendments move paragraph (a) to explanatory material. Paragraph (b) was included to address "separation of powers" concerns identified by the court by expressly recognizing the director's authority and the limitations thereon.⁵ The amendments delete paragraph (b).

2. General Provision 2

GP 2 defines basic terms commonly used in the report. Two of the terms are defined in explanatory material and a third is not used elsewhere in the report; the amendments delete these three terms from the general provisions. Two of the terms define gaging stations which are a key feature of a subsequent general provision. These two terms are therefore included in the amended report as GP 1.

3. General Provision 3

GP 3 defines conjunctive administration, which is term based on general law which provides that a senior appropriator is entitled to enjoin interference by junior appropriators from tributary sources that, absent such interference, would otherwise reach the senior appropriator's source in usable quantities. The amendments delete GP 3.

4. General Provision 4

Paragraphs (a) and (b) of GP 4 establish the circumstances in which portions of the surface water of the Big Lost River and its tributaries will be administered as separate sources. These provisions were originally decreed in *Utah Construction Co. v. Abbott*, Equity No 222 (D.E.Id. 1923) (UC Decree), and surface water rights have been historically and are currently administered in accordance with these provisions. These provisions are currently included in IDWR Water Distribution Rules - Water District 34, IDAPA 37.03.12 (1994) (Basin 34 Rules). However, the authority for the inclusion of these provisions in the rules is the UC Decree, which will be superseded by the decree in the SRBA, and the general provisions in the Basin 34 Report, which recommended the inclusion of these provisions in the SRBA decree. Since the surface waters of the Big Lost River and its tributaries would be administered as a single source absent a provision for their separate administration, these provisions are necessary for the administration of surface waters in Basin 34 in accordance with historical and current practices. These provisions are therefore included in the amended report as part of GP 2.

⁵ See Idaho Code §42-1421.

Paragraph (c) describes the manner in which the "Back Channel" will be administered. Those portions set forth in sub-paragraphs (i), (ii), and (iii) were originally decreed in the UC Decree, and the surface waters of the Big Lost River have been historically and are currently administered in accordance with these provisions. These provisions are currently included in the Basin 34 Rules. However, the authority for the inclusion of these provisions in the rules is the UC Decree, which will be superseded by the decree in the SRBA, and the general provisions in the Basin 34 Report, which recommended the inclusion of these provisions in the SRBA decree. Definition of the manner in which the Back Channel must be used for the distribution of water is necessary for the administration of surface waters in Basin 34 in accordance with historical and current practices. These provisions are therefore included in the amended report in GP 2.

The amendments do, however, delete sub-paragraph (iv) of paragraph (c). The UC decree originally provided that the users of water from the Back Channel were required to install and maintain a measuring device and control works. The surface waters of the Big Lost River are currently administered without such tools. IDWR included this portion of the general provision to address the possibility that such tools may be necessary in the future. Since such tools are not currently necessary for the administration of water rights, the amendments delete this portion of the GP.

5. General Provision 5

GP 5 was included to inform claimants that all rights to ground water would be administered as provided as set forth in Idaho Code §42-237(a), including rights to geothermal ground water and ground water for domestic use. The amendments move this text to explanatory material.

6. General Provision 6

Paragraph (a) of GP 6 was included to recognize the hydrologic connection between ground and surface water in Basin 34, and thus, the relationship between the water rights from those sources, which will be the basis for conjunctive administration of water rights in Basin 34. Recognition of this relationship is necessary for the administration of water rights in Basin 34, so this portion of GP 6 is included in the Amended Basin 34 Report as GP 3. Since some of the ground water rights in Basin 34 are in an area that does not have a significant impact on the surface flows of the Big Lost River, the water rights in that area contain a statement providing that they will be administered as separate from the river. The GP therefore identifies the ground water rights subject to conjunctive administration as those that do not expressly provide for separate administration. The amendments also include information as to the general concept of conjunctive administration in the explanatory material.

Paragraph (b) of GP 6 was included to inform claimants of the manner in which small domestic and stockwater rights would be administered, particularly in light of the procedure allowing the adjudication of small domestic and stockwater rights to be deferred. The amendments move this text to explanatory material.

7. General Provision 7

GP 7 was included to inform claimants about information currently available as to the hydrologic connection between Basin 34 and the remainder of the Snake River Basin, and to inform claimants that water rights in Basin 34 and the Snake River Basin would be conjunctively administered consistent with the law and with available information. The amendments move this text to explanatory material.

8. General Provision 8

Paragraph (a) of GP 8 provides for a minimum flow below Mackay Dam. The first sentence is a provision that was originally decreed in the UC Decree. The second sentence clarifies an ambiguity in the original decree. The surface waters of the Big Lost River have been historically and are currently administered in accordance with these provisions. These provisions are currently included in the Basin 34 Rules. However, the authority for the inclusion of these provisions in the rules is the UC Decree, which will be superseded by the decree in the SRBA, and the general provisions in the Basin 34 Report, which recommended the inclusion of these provisions in the SRBA decree. Inclusion of these provisions is necessary for the administration of surface waters in Basin 34 in accordance with historical and current practices. These provisions are therefore included in the amended report in GP 4.

Paragraph (b) of GP 8 provides for a practice known as "rotation" of natural flow rights into storage, subject to certain conditions. The decree approving formation of the Big Lost River Irrigation District and its plan of operation provides that natural flow rights may be stored, and this rotation is an historic and current practice in Basin 34. This practice is recommended to be permitted to continue based on certain unique circumstances in the Basin 34; however, this practice must be carefully limited to prevent interference with senior rights or injury to junior rights. These provisions are currently included in the Basin 34 Rules. However, the authority for the inclusion of these provisions in the rules is the decree approving the BLRID plan of operations, which will be superseded by the decree in the SRBA, and the general provisions in the Basin 34 Report, which recommended the inclusion of these provisions in the SRBA decree. If the surface waters of the Big Lost River are to be administered in accordance with this historical and current practice, then inclusion of these provisions in the SRBA decree is necessary. These provisions are therefore included in the amended report in GP 4.

The amendments move paragraph (c) of GP 8 to the description of the individual water rights recommended for storage at Mackay Dam and Reservoir.

9. General Provision 9

GP 9 is a statement of general law that requires appropriators to install and maintain measuring devices and control works as necessary for the administration of water rights.⁶ General provisions as to such requirements are commonly found in water right decrees. Although such requirements are a provision of general law, it is provision that every claimant needs to know. The amendments move this text to explanatory material.

10. General Provision 10

GP 10 recognizes the customary practice pursuant to which any water right may be used for emergency fire-fighting. This GP is necessary to define water rights, because it allows this use even though firefighting is generally not the purpose for which water was appropriated, and because it defines fire-fighting use by limiting it to emergency fire-fighting. GP 10 is included in the amended report as GP 5.

11. General Provision 11

GP 11 quantifies the consumptive use for certain classes of water rights or portions of water rights as "de minimis." Rights or portions of rights for small domestic and/or stockwater (D&S) uses is the largest (but not the only) class of use addressed by this general provision.⁷ The amendments delete this GP. This is one of two amendments that will require the most extensive revisions to the director's reports.⁸

Annual volume of consumptive use is an element IDWR is required to quantify for each recommended water right. If this GP is deleted, then appropriate language quantifying consumptive use must be added to each of the water rights to which this GP applies. Of the approximately 4700 water rights recommended in the Basin 34 report, over 3300 are recommended for small D&S use or include a small D&S use.

⁶ See Idaho Code §42-701.

⁷ IDWR has filed reports in several subcases describing the basis for its determination of quantity and consumptive use for rights or portions of rights for small D&S uses. See IDWR's Brief Re: Elements of Small Domestic and Stockwater Rights, and IDWR's Second Brief Re: Elements of Small Domestic and Stockwater Rights, subcase nos. 34-10807, 34-10717, 34-12425 and 34-12429.

⁸ The other amendment that will require extensive revisions is the change in the format of the description of individual rights to address concerns raised by the court as to "remarks." The amendment to the format of the description of individual rights is addressed further below.

Attachment 3 consists of samples of uncontested water rights currently recommended in the Basin 57 report which have been revised to illustrate the format IDWR will use for the description of individual water rights. Each of the recommendations that includes a small D&S use shows the language IDWR will use to determine the consumptive use element for each right.⁹

12. General Provision 12

GP 12 defines domestic use, and includes three definitions: small domestic use that meets the definition of Idaho Code §42-111(1)(a), small domestic use that meets the definition of Idaho Code §42-111(1)(b), and larger domestic uses that do not meet either of the statutory definitions. The existence of three definitions of domestic use has understandably caused considerable confusion, and the amendments delete these definitions. Instead, the description of individual rights will identify whether a domestic use meets the definition of a small domestic use as set forth in §42-111.¹⁰

One purpose of the last paragraph is to inform claimants that the diversion volume for small domestic uses set forth in the statute only sets a cap for rights that qualify as small domestic and is not the actual diversion volume of the myriad small domestic uses that come within the statutory definition. Another purpose is to define diversion volume for such rights as the quantity actually beneficially used for the purposes for which the water right is appropriated. IDWR will move this diversion volume limitation to the description of the individual water rights. The report currently identifies the actual uses of small D&S rights in the description of the right (such as, for example, DOMESTIC, ONE HOME).¹¹ The amended descriptions of individual rights will further provide that the quantity of the right is limited to the amount beneficially used for that purpose. Each of the recommendations in Attachment 3 that includes domestic as a purpose of use shows the language IDWR will use.¹²

⁹ The recommendations will further identify whether a recommended domestic and/or stockwater use is a small use as defined by Idaho Code §§ 42-111 or 42-1401A(12). This and other amendments to the description of individual water rights are further discussed below.

¹⁰ This amendment also addresses concerns identified by the Special Master for Basin 34 in various subcases. See subcase nos. 34-10807, 34-10717, 34-12425 and 34-12429.

¹¹ IDWR has filed reports in several subcases describing the basis for its determination of quantity and consumptive use for rights or portions of rights for small D&S uses. See IDWR's Brief Re: Elements of Small Domestic and Stockwater Rights, and IDWR's Second Brief Re: Elements of Small Domestic and Stockwater Rights, subcase nos. 34-10807, 34-10717, 34-12425 and 34-12429.

¹² This and other amendments to the description of individual water rights are further discussed below.

13. General Provision 13

GP 13 defines stockwater (SW) use, and includes two definitions: small SW use that meets the definition of Idaho Code §42-1401A(12), and larger SW uses that do not meet the statutory definition. The existence of two definitions of SW use has understandably caused some confusion, and the amendments delete these definitions. Instead, the description of individual rights will identify whether a SW use meets the definition of a small SW use as set forth in §42-1401A(12).¹³

One purpose of the last paragraph is to inform claimants that the diversion volume for small SW uses set forth in the statute only sets a cap for rights that qualify as small SW use and is not the actual diversion volume of all SW uses that comes within the statutory definition. Another purpose is to define diversion volume for such rights as the quantity actually beneficially used for the purposes for which the water right is appropriated. IDWR will move this diversion volume limitation to the description of the individual water rights. The report currently identifies the actual uses of small D&S rights in the description of the right (such as, for example, STOCKWATER, 500 RANGE CATTLE).¹⁴ The amended description of such rights will further provide that the quantity of the right is limited to the amount beneficially used for that purpose. Each of the recommendations in Attachment 3 that includes SW as a purpose of use shows the language IDWR will use.¹⁵

14. General Provision 14

GP 14 defines irrigation as including incidental stockwater use, irrigation use outside the recommended irrigation season, and diversion of flows in excess of the recommended quantity, subject to certain limitations. GP 14 is necessary to define or administer water rights because it recognizes customary practices with regard to the use of irrigation water rights that are not expressly described by the statutory elements in the description of individual water rights. The limitations on these practices are necessary to ensure that water is beneficially used and to prevent injury to other water rights. These provisions are included in the Basin 34 Rules. However, the authority for the inclusion of these provisions is the general provisions in the Basin 34 Report, which recommended the inclusion of these provisions in the SRBA decree.

¹³ This amendment also addresses concerns identified by the Special Master for Basin 34 in various subcases. See subcase nos. 34-10807, 34-10717, 34-12425, 34-12429.

¹⁴ IDWR has filed reports in several subcases describing the basis for its determination of quantity and consumptive use for rights or portions of rights for small D&S uses. See IDWR's Brief Re: Elements of Small Domestic and Stockwater Rights, and IDWR's Second Brief Re: Elements of Small Domestic and Stockwater Rights, subcase nos. 34-10807, 34-10717, 34-12425 and 34-12429.

¹⁵ This and other amendments to the description of individual water rights are further discussed below.

In addition, the use of water outside the recommended irrigation season is based in part on the UC decree, which will be superseded by the decree in the SRBA.

The amendments therefore include this GP as GP 6. The amendments do, however, include certain revisions to the text of this GP. As noted above, IDWR has commenced efforts to resolve GP objections through settlement. IDWR has concluded that these changes are appropriate, and believes that the changes may resolve or promote the resolution of objections to this GP.

15. General Provision 15

The description of individual water rights to ground water for irrigation use generally includes a quantification of diversion volume in AFY. The description of individual water rights to surface water for irrigation generally does not include a diversion volume in AFY, unless it was previously determined in a license or decree, or unless the right includes storage as a purpose of use.

This GP describes the manner in which diversion volume was determined for irrigation rights that include diversion volume, and clarifies other irrigation rights by describing the manner in which IDWR will determine the diversion volume for other irrigation rights should that determination become necessary for the administration of water rights in the future. This GP is also referenced in GP 17. The amendments move this text to explanatory material.

16. General Provision 16

As noted above, GP 11 quantifies the consumptive use for certain classes of water rights or portions of water rights as "de minimis," and the largest such class is small D&S uses. The most common example of a multiple purpose right is one that is used both for irrigation and for a small D&S use. Since IDWR had quantified the consumptive use for the small D&S portion as de minimis in a GP, it was necessary to note that the consumptive use quantified in AFY for the irrigation portion did not include an amount in AFY for the small D&S use. Paragraph (b) of GP 16 so provides. Since the amendments will move the quantification of consumptive use for small D&S uses to the description of the individual water right, this sentence is no longer necessary. The amendments therefore delete the paragraph (b).

Paragraph (a) of GP 16 describes the manner in which IDWR determined consumptive use for rights for irrigation, and is referenced in GP 17. This portion of GP 16 is moved to explanatory material.

17. General Provision 17

This GP addresses the use of supplemental water rights. The appropriation of water rights to supplement existing water rights is a common practice in Idaho, but is one which must be appropriately limited to ensure beneficial use and to prevent injury to other water rights. The recommendation of such rights is further described in IDWR's September Report, at page 21, footnote 22.

In most instances, the description of supplemental water rights includes a remark that identifies the water rights that are used in combination and places appropriate limits on the combined use, including combined diversion rate, combined consumptive use, and combined irrigated acreage. (Some water rights also include a combined diversion volume.) In some instances, such as where water rights are used in combination with water from an irrigation district, it was not reasonably possible to identify the share of the district's water right to which the claimant was entitled and to limit the combined use of the claimant's water rights and the water from the irrigation district. This GP clarifies such rights by providing that their use would be subject to the standards for beneficial use for irrigation that were generally applied to water rights in that reporting area. The limitation on the exercise of water rights to use that is not unreasonably wasteful is inherent in the doctrine of prior appropriation. The amendments move this text to explanatory material.

18. General Provision 18

Idaho Code §42-220 establishes a statutory standard for beneficial use for irrigation, by providing that IDWR may not license and a court may not decree a right for irrigation purposes in excess of 0.02 cfs per acre unless the claimant shows that a higher rate of diversion is reasonably required. A higher rate of diversion may reasonably be required, for example, due to conveyance losses between the point of diversion and the place of use, or irrigation methods or field conditions at the place of use. Based on such factors, IDWR found that 0.0286 cfs per acre is a reasonable rate of diversion for irrigation from surface water in Basin 34.

Where a diversion rate in excess of the standard (0.02 cfs per acre for ground water or 0.0286 cfs per acre for surface water) was claimed, and where IDWR found that the excess was reasonable due to conveyance losses, IDWR included a remark in the individual right that limited the excess to use for conveyance losses.

This GP further defines such rights by stating the conditions under which use of the excess amount may continue, which conditions are found in paragraph (d). The most significant of these limitations is that the use may not constitute unreasonable waste, a limitation which is inherent in the doctrine of prior appropriation. Additional explanation of the manner in which IDWR recommended such rights was included in an effort to make the conditions on their continued use more understandable.

Discussion with claimants who objected to this GP and to the conveyance loss remark in the description of individual rights demonstrated that both the GP and the remarks have generated considerable confusion. In particular, some objectors have read this language as an attempt to quantify actual conveyance losses, and therefore have asserted that the quantification was incorrect. The amendments delete GP 18 (except for the first sentence regarding the standard for irrigation, which is moved to explanatory material). IDWR will also delete the conveyance loss remarks in the individual water rights.

19. General Provisions in the Basin 34 Report Part II

The director's report part I contains the director's recommendations as to claims to water rights appropriated under state law. The director's report part II contains abstracts of claims based on federal law, which pursuant to statute may only summarize the claim without substantively changing the claim.¹⁶

The amendments to IDWR recommendations, therefore, are to part I of the Basin 34 Report. The Basin 34 Report part II contains the following statement as to the general provisions in part I:

General provisions 1 through 18 from Part I of the Director's Report for Reporting Area 1 (Basin 34) are incorporated herein by reference. The director recommends that these general provisions be made applicable to water rights reserved under federal law in the decree determining rights to water from Basin 34.

To make this paragraph consistent with the amendments to part I of the report, this paragraph should be amended to list only amended GPs 1 through 6.

C. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS

As noted above, this portion of the preamble is explanatory material. The amendments include additional text that IDWR believes will be useful to claimants in using the list of recommended water rights. The instructions also include one amendment necessary to make the instructions consistent with amendments to be made to the description of individual water rights: the "remarks" section will be relabeled "other matters necessary for the definition or administration of the water right."¹⁷

¹⁶ See Idaho Code §42-1409(2)&(3) (1990), prior to the 1994 amendments to the adjudication statute.

¹⁷ This and other amendments to the description of individual water rights are further discussed below.

D. INSTRUCTIONS FOR USE OF LIST OF CLAIMS RECOMMENDED TO BE DISALLOWED

As noted above, the instructions for the list are explanatory material. Both the caption for this list and the instructions for this list are amended consistent with amendments that will be made to the list.

The list, currently captioned the "list of rights/claims not recommended," included all water right records of IDWR to which a water right number had been assigned, including previously decreed rights, licenses, permits, applications for permits, statutory claims, properly filed adjudication claims, subsequently withdrawn claims, rejected claims, subsequent splits of water rights or claims evidenced by those records, etc., and included a remark indicating the status of the water right record. The list was therefore in large measure a "housekeeping" effort by which IDWR sought to inventory all water right records and indicate their disposition. At the hearings on the motions for partial decrees of uncontested portions of the reports in the three test basins, the court expressed the view that it was unnecessary to include much of this material in a decree, since any water right which was required to be claimed in the adjudication and was not claimed would not exist, and any records of such rights would be superseded by the decree.

IDWR will revise the list to include only 1) claims that were properly filed and that IDWR recommends be disallowed, and 2) claims that were filed but rejected either because the claim was incomplete or because it was not accompanied by the appropriate fee.¹⁸ The amended list of claims recommended to be disallowed will be filed along with the amended list of recommended water rights, discussed below.

LIST OF RECOMMENDED WATER RIGHTS

As previously noted, the deletion of some GPs will require changes in the descriptions of individual water rights. The most notable example is GP 11, which defines the consumptive use of certain classes of rights or portions of rights as de minimis. Due to the magnitude of the effort required to amend the description of individual rights, the revisions should include not only those necessary as a result of changes in the GPs, but all changes to IDWR's recommendations that it has concluded are appropriate to address the concerns identified by the court and the parties.

IDWR will amend the list of recommended water rights as further described below. Attachment 3 consists of samples of uncontested water rights currently recommended in the Basin 57 report which have been revised to illustrate the manner in which IDWR will amend the description of individual water rights. IDWR's

¹⁸ IDWR returns rejected claims to the claimant with an explanation of the reason for rejection to allow the claimant the opportunity to properly file the claim or seek relief from the court.

September Report, item 2, offers a proposed plan for amendment of the descriptions of rights following resolution of the GP objections and Basin Wide Issue No. 4.

The amendments to the recommended water rights will include the following.

1. Standard Form 5 (SF5) Format

IDWR will amend the format of the description of individual water rights in the director's reports to list each element serially, similar to the format of the SF5, rather than in the columnar format previously used in the director's reports. Use of a similar format for recommendations of individual water rights, SF5s, and decrees will make all documents describing a water right easier to read and understand.

The report will continue to list water rights alphabetically by source, and to list rights for each source chronologically by priority date. This method of organization is useful for comparing a water right with other rights from the same source that are most likely to affect each other. The description of the individual water right will, however, include a description of the source of the right in addition to the source heading at the top of the page.

2. Remarks

IDWR will amend text previously included in the remarks section to separately identify explanatory material. Text previously included in the remarks section that IDWR recommends be included in the decree will be relocated under the element of the right to which the text applies. In those limited situations where IDWR recommends text be included in the decree, but the text applies generally to the water right, the text will be located under an element entitled "other matters necessary for definition or administration of the water right." The sample amended recommendations of water right no. 57-00098A in Attachment 3 is an example of a water right that contains such other matters. In this instance, the further text was a condition of a transfer approved by IDWR pursuant to Idaho Code §42-222, which was necessary to prevent injury to other water rights from the change in use.

3. Rights or Portions of Rights for Domestic and Stockwater (D&S) Uses

IDWR will include text that identifies rights or portions of rights that meet the definition of small D&S uses as set forth in Idaho Code §42-111 or 42-1401A(12). IDWR will include language quantifying the consumptive use of such rights as "de minimis," thereby relocating the quantification from GP 11 to the description of the

individual right. IDWR will relocate diversion volume limits previously found in GP 12 and 13 to the description of the individual water rights.¹⁹

4. Amnesty Statutes

IDWR will amend the description of individual rights to conform to the amnesty statutes enacted as part of the 1994 amendments to the adjudication statute.

5. Updates

IDWR will amend the description of rights to include changes in address or ownership of record with IDWR and changes resulting from final administrative actions by IDWR that have occurred since the filing of the director's report.²⁰

FURTHER PROCEEDINGS ON OBJECTIONS TO GENERAL PROVISIONS

The A&B Irrigation District and other parties have filed a motion to designate GPs as a basin-wide issue, which is also set for hearing at the December 19, 1995 Status Conference. The United States, Idaho Power Company, Twin Falls Canal Company, and North Side Canal Company (all GP objectors) have filed responses concurring that GPs should be designated a basin-wide issue. No party to the SRBA has responded in opposition to the designation.

If the motion to designate is granted, then the basin-wide issue subcase offers a forum in which the following can be accomplished:

1. the parties to whom notice by mail must be provided are identified,
2. objections to GPs common to all test basins can be resolved consistently,
3. settlement efforts can proceed expeditiously.

¹⁹ See discussion as to GPs 9, 11 and 12 above.

²⁰ IDWR has proposed to submit "update reports" at regular intervals following the submission of its amended report. See September Report, item 3.

Attachment 3

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-1

RIGHTS FROM: SOURCE: ALDER CREEK TRIBUTARY: CASTLE CREEK

RIGHT NUMBER: 57-11112

NAME & ADDRESS: US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

SOURCE: ALDER CREEK TRIBUTARY: CASTLE CREEK

QUANTITY: 0.14 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 520
RANGE CATTLE

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY
OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 01/01/1875

POINT OF DIVERSION:
T06S R01W S17 NESW (B)
NESE (E)

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
STOCKWATER 01-01 12-31 0.14 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER
T06S R01W S17 NESW NESE NWSE

CONSUMPTIVE USE:
THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
BLM RECORD ID = 5701580176

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-2

RIGHTS FROM: SOURCE: ALDER CREEK TRIBUTARY: CASTLE CREEK

RIGHT NUMBER: 57-11505

NAME & ADDRESS: JOSEPH L PARKINSON
123 W HIGHLAND VIEW DRIVE
BOISE ID 83702

SOURCE: ALDER CREEK TRIBUTARY: CASTLE CREEK

QUANTITY: 0.16 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 700
HEAD BEEF CATTLE, 30 HEAD HORSES

PRIORITY DATE: 07/16/1931

POINT OF DIVERSION:
T06S R02W S25 NWSWSE
NWNE (B)
SWSE (E)

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
STOCKWATER 01-01 12-31 0.16 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER
T06S R02W S25 NWNE SWNE NWSE SWSE

CONSUMPTIVE USE:
THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995

PAGE: A-3

RIGHTS FROM: SOURCE: ALKALI CREEK TRIBUTARY: REYNOLDS CREEK

RIGHT NUMBER: 57-11509

NAME & ADDRESS: DOYLE D CALDWELL
3915 AMITY AVE
NAMPA ID 83851

SOURCE: ALKALI CREEK TRIBUTARY: REYNOLDS CREEK

QUANTITY: 0.02 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 12
HEAD CATTLE, AND HORSES

PRIORITY DATE: 12/31/1975

POINT OF DIVERSION:
T02S R04W S24 SESENW

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
STOCKWATER 01-01 12-31 0.02 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER
T02S R04W S24 SENW

CONSUMPTIVE USE:
THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-4

RIGHTS FROM: SOURCE: ALKALI SPRING TRIBUTARY: JUMP CREEK

RIGHT NUMBER: 57-02348

NAME & ADDRESS: US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

SOURCE: ALKALI SPRING TRIBUTARY: JUMP CREEK

QUANTITY: 0.04 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 201
RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY
OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 06/26/1941

POINT OF DIVERSION:
T01N R04W S07 SESENE

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
STOCKWATER 04-01 05-31 0.04 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER
T01N R04W S07 SENE

CONSUMPTIVE USE:
THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE
BLM RECORD ID - 5701588006

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995

PAGE: A-5

RIGHTS FROM: SOURCE: ALLEN SPRING TRIBUTARY: WEST RABBIT CREEK

RIGHT NUMBER: 57-07123

NAME & ADDRESS: US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

SOURCE: ALLEN SPRING

TRIBUTARY: WEST RABBIT CREEK

QUANTITY: 0.01 CFS
0.1 AFY

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 294
RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY
OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 06/08/1974

POINT OF DIVERSION:
T02S R02W S19 NWNE

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

STOCKWATER	05-01 11-30	0.01 CFS
		0.1 AFY
WILDLIFE	01-01 12-31	0.01 CFS
		0.1 AFY

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER
T02S R02W S19 NWNE

PLACE OF USE: WILDLIFE
T02S R02W S19 NWNE

CONSUMPTIVE USE:
THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

THE CONSUMPTIVE USE FOR THE WILDLIFE PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE
BLM RECORD ID = 5701588197

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995

PAGE: A-6

RIGHTS FROM: SOURCE: ANTELOPE TRAIL RESERVOIR TRIBUTARY: SINKS

RIGHT NUMBER: 57-02507

NAME & ADDRESS: US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

SOURCE: ANTELOPE TRAIL RESERVOIR TRIBUTARY: SINKS

QUANTITY: 1.2 AFY

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 500 RANGE; WILDLIFE, VARIABLE AMOUNT.

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 06/05/1953

POINT OF DIVERSION:
T08S R02E S27 NWSWNW

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

STOCKWATER STORAGE	01-01 12-31	1.2 AFY
STOCKWATER FROM STORAGE	01-01 12-31	1.2 AFY
WILDLIFE STORAGE	01-01 12-31	1.2 AFY
WILDLIFE FROM STORAGE	01-01 12-31	1.2 AFY

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER STORAGE
T08S R02E S27 SWNW

PLACE OF USE: STOCKWATER FROM STORAGE
SAME AS OTHER USE

PLACE OF USE: WILDLIFE STORAGE
SAME AS OTHER USE

PLACE OF USE: WILDLIFE FROM STORAGE
SAME AS OTHER USE

CONSUMPTIVE USE:

THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.
THE CONSUMPTIVE USE FOR THE WILDLIFE PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
BLM RECORD ID - 5701688348

AJ5858NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-7

RIGHTS FROM: SOURCE: BABBINGTON CREEK TRIBUTARY: REYNOLDS CREEK

RIGHT NUMBER: 57-02187

NAME & ADDRESS: BRUCE REUCK

TERRY L REUCK
HC 88 BOX 1080
MURPHY ID 83650

SOURCE: BABBINGTON CREEK

TRIBUTARY: REYNOLDS CREEK

QUANTITY: 1.80 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 57-00261, 57-01067, 57-00253, 57-00268, 57-01065, 57-02170 AND 57-01064 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.78 CFS.

PRIORITY DATE: 03/25/1947

POINT OF DIVERSION:

T02S R04W S36 SWNW
T03S R04W S02 LOT 3 (NENW)

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

IRRIGATION 03-15 11-15 1.6 CFS

PLACE OF USE: IRRIGATION 90.0 ACRES TOTAL

T02S R04W S25 SESW 3.0
S35 NESE 11.0 SWSE 6.0 SESE 19.0
S36 NENW 7.0 NWNW 6.0 SWNW 9.0
T03S R04W S02 Lot 1 (NENE) 10.0 Lot 2 (NWNE) 18.0 Lot 3 (NENW) 1.0

USE OF THIS RIGHT WITH RIGHT NOS. 57-00261, 57-01067, 57-00253, 57-00268, 57-01065, 57-02170 AND 57-01064 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 189 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NOS. 57-00261, 57-01067, 57-00253, 57-00268, 57-01065, 57-02170 AND 57-01064 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 510.3 AF.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: SEP-1-1995
PAGE: A-8

RIGHTS FROM: SOURCE: BROWNS CREEK TRIBUTARY: CATHERINE CREEK

RIGHT NUMBER: 57-00072

NAME & ADDRESS: SHIRLEY COX
HC 79 BOX 2065
OREANA ID 83650

SOURCE: BROWNS CREEK TRIBUTARY: CATHERINE CREEK

QUANTITY: 0.9 CFS

USE OF THIS RIGHT WITH RIGHT NO.'S 57-00049, 57-00055, 57-00056B, 57-00074, 57-00079 & 57-00081 IS LIMITED
TO A TOTAL COMBINED DIVERSION RATE OF 13.16 CFS.

PRIORITY DATE: 10/01/1901

POINT OF DIVERSION:
T05S R01W S24 NENWNEPURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
IRRIGATION 03-15 11-15 0.9 CFS

PLACE OF USE: IRRIGATION	192.0 ACRES TOTAL
T04S R01E S29	SWSW 6.0 SESW 3.0
S31	NENE 18.0 SWNE 20.0 SENE 15.0 SENW 1.0
	NESW 27.0 Lot 3 (NWSW) 2.0 Lot 4 (SWSW) 25.0 NWSE 22.0
S32	NENW 1.0 NWNW 23.0
T05S R01W S01	Lot 1 (NENE) 18.0 SWNE 4.0 SENE 7.0

USE OF THIS RIGHT WITH RIGHT NO.'S 57-00049, 57-00055, 57-00056B, 57-00074, 57-00079 & 57-00081 IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 192 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NO.'S 57-00049, 57-00055, 57-00056B, 57-00074, 57-00079 & 57-00081 IS LIMITED
TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 672 AF.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

THIS RIGHT INCLUDES AN EXPANSION IN IRRIGATED ACRES PURSUANT TO IDAHO CODE 42-1416(1).

THIS RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00055,
57-00074, 57-00079 AND 57-00081.

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995

PAGE: A-9

RIGHTS FROM: SOURCE: BROWNS CREEK TRIBUTARY: CATHERINE CREEK

RIGHT NUMBER: 57-10619

NAME & ADDRESS: SHIRLEY COX

HC 79 BOX 2065
OREANA ID 83650SOURCE: BROWNS CREEK TRIBUTARY: CATHERINE CREEK
CAT CREEK BROWNS CREEK
LITTLE CAT CREEK BROWNS CREEK
BUCKAROO CREEK BROWNS CREEK

QUANTITY: 0.24 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 1000
HEAD CATTLETHIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY
OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 10/08/1915

POINT OF DIVERSION:

T06S R02W S10 NWNESE (B)
S11 NESENE (B)
SWSWE (B)
S12 SESESE (B)
T05S R01W S31 LOT 1 (NWNWNW) (E)
S33 NENWNE (E)
S36 NENESE (E)
R02W S36 NENWNW (E)

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

STOCKWATER 03-01 12-31 0.24 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER

T05S R01W S31 Lot 1 (NWNWNW)
R02W S35 SWSW
S36 NENE SWNE SENE NWNW
NESW SESW NESE NWSE
SWSE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-10

RIGHTS FROM: SOURCE: BROWNS CREEK TRIBUTARY: CATHERINE CREEK

RIGHT NUMBER: 57-10619 (CONT)

PLACE OF USE: (CONT)

T06S R01W S05	NESW	NWSW	SWSW	
S06	SESE			
S07	NENE	SWNE	NESW	SWSW
	SESW	NWSE		
T06S R02W S01	Lot 4 (NWNW)	SWNW		
S02	SENE	Lot 4 (NWNW)	SWNW	NWSW
SESW	NESE	NWSE	SWSE	
S03	SESE			
S10	NENE	SWNE	NESW	NWSE
S11	NENW	SENW		
S12	SESE			

CONSUMPTIVE USE:

THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995

PAGE: A-11

RIGHTS FROM: SOURCE: BUCKAROO CREEK TRIBUTARY: BROWNS CREEK

RIGHT NUMBER: 57-10619

NAME & ADDRESS: SHIRLEY COX

HC 79 BOX 2065
OREANA ID 83650

SOURCE: BROWNS CREEK TRIBUTARY: CATHERINE CREEK
CAT CREEK BROWNS CREEK
LITTLE CAT CREEK BROWNS CREEK
BUCKAROO CREEK BROWNS CREEK

QUANTITY: 0.24 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 1000
HEAD CATTLE

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY
OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

PRIORITY DATE: 10/08/1915

POINT OF DIVERSION:

T06S R02W S10 NWNESE (B)
S11 NESENE (B)
SWSWE (B)
S12 SESESE (B)
T05S R01W S31 LOT 1 (NWNWNW) (E)
S33 NENWNE (E)
S36 NENESE (E)
R02W S36 NENWNW (E)

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

STOCKWATER 03-01 12-31 0.24 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: STOCKWATER

T05S R01W S31 Lot 1 (NWNW)
R02W S35 SWSW
S36 NENE SWNE SENE NWNW
NESW SESW NESE NWSE
SWSE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-12

RIGHTS FROM: SOURCE: BUCKAROO CREEK TRIBUTARY: BROWNS CREEK

RIGHT NUMBER: 57-10619 (CONT)

PLACE OF USE: (CONT)

T06S R01W S05	NESW	NWSW	SWSW	
S06	SESE			
S07	NENE	SWNE	NESW	SWSW
	SESW	NWSE		
T06S R02W S01 Lot 4 (NWNW)	SESW	NWSE		
S02	SENE	Lot 4 (NWNW)	SWNW	NWSW
SESW	NESE	NWSE	SWSE	
S03	SESE			
S10	NENE	SWNE	NESW	NWSE
S11	NENW	SENW		
S12	SESE			

CONSUMPTIVE USE:

THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-13

RIGHTS FROM: SOURCE: CASTLE CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 57-00096

NAME & ADDRESS: BLAINE COLLETT
DENISE COLLETT
HC 79 BOX 2205
OREANA ID 83650

SOURCE: CASTLE CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.4 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 57-00083, 57-00105, 57-00117, AND 57-10518 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.60 CFS.

PRIORITY DATE: 04/01/1885

POINT OF DIVERSION:
T05S R01E S29 NWSESE

TWO POINTS OF DIVERSION LOCATED IN NWSESE, S29, T05S, R01E.

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
IRRIGATION 04-01 10-15 0.4 CFS

PLACE OF USE: IRRIGATION 124.0 ACRES TOTAL
T05S R01E S20 SESE 9.0
S21 SWSW 35.0 SESW 2.0
S28 NWNW 6.0
S29 NENE 25.0 SENE 25.0 NESE 22.0

USE OF THIS RIGHT WITH RIGHT NOS. 57-00083, 57-00105, 57-00117, AND 57-10518 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 124.0 ACRES IN A SINGLE IRRIGATION SEASON.

CONSUMPTIVE USE:
USE OF THIS RIGHT WITH RIGHT NOS. 57-00083, 57-00105, 57-00117, AND 57-10518 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 434.0 AF.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
THIS RIGHT INCLUDES AN EXPANSION IN IRRIGATED ACRES PURSUANT TO IDAHO CODE 42-1416(1).
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00083, 57-00084, 57-00086, 57-00101, 57-00105, 57-00111, 57-00117, 57-00133, 57-00146, 57-10518 AND 57-10898.

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-14

RIGHTS FROM: SOURCE: CASTLE CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 57-00098A

NAME & ADDRESS: DAVID L PUTNAM

THOMAS T NICHOLSON
DIANE RAE NICHOLSON
10330 W STARDUST DR
BOISE ID 83709

SOURCE: CASTLE CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.2 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 200
HD RANGE CATTLE

PRIORITY DATE: 04/01/1885

POINT OF DIVERSION:

T04S R01E S24 NESWSW

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

IRRIGATION	04-01 10-15	0.2 CFS
STOCKWATER	04-01 10-15	0.05 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: IRRIGATION 33.0 ACRES TOTAL

T04S R01E S24 SENW 25.0 NESW 8.0

THE USE OF THIS RIGHT WITH RIGHT NO. 57-00107A, 57-00151A & 57-00160B IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 33 ACRES.

PLACE OF USE: STOCKWATER

SAME AS OTHER USE

CONSUMPTIVE USE:

THE USE OF THIS RIGHT WITH RIGHT NO. 57-00107A, 57-00151A & 57-00160B IS LIMITED TO A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 115.5 AF.

THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995

PAGE: A-15

RIGHTS FROM: SOURCE: CASTLE CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 57-00098A (CONT)

OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE RIGHT HOLDER IS ENTITLED TO DIVERT AT THE PRESENT POINT OF DIVERSION IN THE SWSW, S. 24, T. 4S, R. 1E, ONLY THE AMOUNT OF WATER AT THE OLD POINT OF DIVERSION LOCATED IN THE SESW, S. 26, T. 4S, R. 1E, LESS A 20 PERCENT LOSS. MEASURING DEVICES SHALL BE MAINTAINED IN CASTLE CREEK AT THE OLD POINT OF DIVERSION AND IN THE DITCH AT THE PRESENT POINT OF DIVERSION. WATER WILL NOT BE IMPOUNDED AT THE PRESENT POINT OF DIVERSION IF THERE IS NOT WATER TO WHICH THE RIGHT HOLDER IS ENTITLED.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

THIS RIGHT INCLUDES AN EXPANSION IN IRRIGATED ACRES PURSUANT TO IDAHO CODE 42-1416(1).

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE:
57-00097A, 57-00106A, 57-00107A, 57-00129, 57-00137, 57-00151A, 57-00153, 57-00180B, 57-00236 & 57-00237A.

RIGHTS HAVE ALSO BEEN CLAIMED TO WATER FROM BASIN 02 FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE, WHICH WILL BE INCLUDED IN A DIRECTOR'S REPORT TO BE FILED AT A LATER DATE. ANY WATER RIGHTS RECOMMENDED IN THE BASIN 02 REPORT FOR THE SAME PURPOSE OF USE AT THE SAME PLACE OF USE DESCRIBED ABOVE WILL CONTAIN LANGUAGE LIMITING THE COMBINED USE OF THIS RIGHT AND THE BASIN 02 RIGHTS.

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-16

RIGHTS FROM: SOURCE: CATHERINE CREEK TRIBUTARY: CASTLE CREEK

RIGHT NUMBER: 57-00050

NAME & ADDRESS: SHIRLEY COX
HC 79 BOX 2065
OREANA ID 83650

SOURCE: CATHERINE CREEK TRIBUTARY: CASTLE CREEK

QUANTITY: 0.79 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: STOCKWATER, 1000 HEAD.

PRIORITY DATE: 04/05/1879

POINT OF DIVERSION:
T04S R01E S28 NENWSW

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):

IRRIGATION	03-15 11-15	0.79 CFS
STOCKWATER	01-01 12-31	0.24 CFS

THE STOCKWATER USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-1401A(12), IDAHO CODE.

PLACE OF USE: IRRIGATION 13.0 ACRES TOTAL
T04S R01E S28 NWSE 13.0

PLACE OF USE: STOCKWATER
SAME AS OTHER USE

CONSUMPTIVE USE: 45.5 AFY

THE CONSUMPTIVE USE FOR THE STOCKWATER PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-17

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 57-10582

NAME & ADDRESS: DENNIS MURDOCH
SHIRLEY MURDOCH
HC 79 BOX 2065
OREANA ID 83650

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR: DOMESTIC, 1 HOME

PRIORITY DATE: 07/01/1885

POINT OF DIVERSION:
T04S R01E S26 SWNWNE

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
DOMESTIC 01-01 12-31 0.04 CFS

THE DOMESTIC USE FOR THIS RIGHT MEETS THE DEFINITION OF § 42-111, IDAHO CODE.

PLACE OF USE: DOMESTIC
T04S R01E S26 NWNE

CONSUMPTIVE USE:
THE CONSUMPTIVE USE FOR THE DOMESTIC PORTION OF THIS RIGHT IS DE MINIMIS.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
PARCEL NO. RP 0138903.

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-1-1995
PAGE: A-18

RIGHTS FROM: SOURCE: GROUNDWATER

RIGHT NUMBER: 57-10393

NAME & ADDRESS: CITY OF HOMEDALE
PO BOX 846
HOMEDALE ID 83628

SOURCE: GROUNDWATER

QUANTITY: 0.89 CFS

PRIORITY DATE: 01/01/1940

POINT OF DIVERSION:
T03N R05W S09 NWNENE
NWSENE

PURPOSE AND PERIOD OF USE AND QUANTITY FOR INDIVIDUAL USE(S):
MUNICIPAL 01-01 12-31 0.89 CFS

PLACE OF USE:
WITHIN CITY LIMITS OF HOMEDALE

CONSUMPTIVE USE:
USE OF THIS RIGHT WITH RIGHT NO. 57-07027 IS LIMITED TO A TOTAL ANNUAL CONSUMPTIVE USE VOLUME OF 302.1 AF.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-07027 AND 63-09260.